

2013

Analysis of Impediments to Fair Housing Choice

ACCESS TO OPPORTUNITY IN THE COMMONWEALTH

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Executive Summary

The Commonwealth of Massachusetts has an obligation to assume an active, affirmative posture to promote fair housing choice. Fair housing choice impacts individual lives and collectively shapes neighborhoods, communities, and the state as a whole; therefore, it is inextricably linked to the Commonwealth's duty, and ability, to provide for the general welfare of its residents.

Fair housing choice is rooted in the right to live where one wants to live without being hindered by discrimination (e.g., federal Fair Housing Act and the state anti-discrimination law, Massachusetts General Laws Chapter 151B), and relates to other fundamental legal protections, such as the right to enjoy privileges and immunities across state or municipal boundaries (U.S. Constitution), and the right to equality in seeking and obtaining safety and happiness (Massachusetts Constitution¹). The inherent significance of these civil rights principles in relation to the well-being of individuals and families, as well as the Commonwealth, has been underscored by research over the past ten to fifteen years that demonstrates, conclusively, that "neighborhood conditions play a substantial role in the life outcomes of inhabitants."² Housing location generally dictates the degree to which a household has access to "critical opportunities needed to excel in our society, such as high-performing schools, sustainable employment, stable housing, safe neighborhoods, and health care."³

Historic and ongoing racial and ethnic segregation patterns in Massachusetts, coupled with historic disinvestment in areas of racial/ethnic concentration, have produced a geographic pattern in which areas of racial and ethnic concentration converge with areas of concentrated poverty such that "segregation and racially-isolated pockets of concentrated poverty are very apparent in Massachusetts."⁴ Granting that generalizations overlook legitimate exceptions, generally, these racially/ethnically concentrated areas of poverty or areas of opportunity, referred to herein as, or interchangeably with, "impacted areas," face challenges in providing quality education, access to jobs and good public health outcomes. Conversely, "non-impacted areas," are those areas that offer high quality education, economic opportunity and excellent public health outcomes, which generally are not accessible to households of color as a result of segregation and continuing policies that perpetuate its legacy.

With respect to the connection between access to housing resources in non-impacted areas, based upon analysis by the Kirwan Institute and other research, we know that State assisted rental housing is disproportionately located in impacted areas as evidenced by findings such as the following: 70% of privately-owned/publicly-subsidized units, and 72% of federal Section 8 units administered by regional non-profit agencies, are located in these impacted areas;⁵ and 61% of

¹ Article CVI ("All people are born free and equal and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness").

² Kirwan Institute for the Study of Race and Ethnicity, Ohio State University, "The Geography of Opportunity: Building Communities of Opportunity in Massachusetts" (January 2009) (based on 2000 U.S. Census data) http://kirwaninstitute.osu.edu/docs/publications/finalreport_maoppcomm_kirwan_jan2009.pdf.

³ Id., pg. 7.

⁴ Id., pg. 12.

⁵ McArdle, Nancy, "State-Assisted Housing and Rental Assistance in Massachusetts: Who is Served and Where?," prepared for Action for Regional Equity (May 2010).

family public housing units, which serve predominantly households of color with children, are in such areas.⁶

Given the ongoing patterns of racially/ethnically concentrated areas of poverty in the Commonwealth, the limited affordable housing resources in non-impacted areas, and the consequent barriers that households of color have to accessing these communities, an essential element of the state's efforts to meet its affirmative fair housing obligation must be to manage our housing programs to create and/or enhance resources, particularly affordable, quality housing, in non-impacted areas.

The counterpart to a strategy of improving housing choice is the continued support for strategic efforts to improve opportunity in communities that have suffered disinvestment. Moreover, the existing stock of affordable housing in these communities is a valuable asset serving thousands of households. Regardless of the location of such housing, we have an obligation to preserve it and avoid the displacement and further disinvestment that would otherwise result. Agency decisions must *balance* (1) the affirmative obligation to support investment, particularly in affordable rental family housing, in non-impacted areas in order to open up access to the life-long benefits of such areas to all residents, with (2) strategic housing and community development re-investment in impacted areas in order to support efforts to foster and enhance opportunity in such neighborhoods.

DHCD's programs will seek to identify and fund housing and community development projects that achieve the goal of connecting households, particularly households of color, with educational, employment and public health opportunities. This will be accomplished by ensuring that criteria for eligibility and the award of funds serve to attract housing and community development projects in non-impacted areas *and/or* are part of an explicit, documented re-investment plan to revitalize impacted areas. DHCD will also work with the Massachusetts Office of Access and Opportunity to join other state agencies and partners to effectuate meaningful outcomes, articulating the following framework for action: (1) address the harm of separation from opportunity on fair housing protected classes and other affected groups; (2) respond through interventions such as multi-sector targeted investments and policies, as well as household mobility supports; and (3) use data to continually re-inform policies and to build support and measure progress relative to opportunity and affirmative furtherance of fair housing.

In evaluating progress, it will be important to reserve consideration for personal, specific choices that also determine where individuals will or want to live based on their life circumstances and preferences. The extent to which housing providers discriminate against home seekers will also shape outcomes. In sum, fair housing choice as measured by opportunity indicators in a geographical context, although critical to fair housing policy and discourse, is not necessarily a proxy for the *exercise* of fair housing rights.

In addition to analyzing opportunity in relation to racial/ethnic disparities and segregation patterns, this Analysis of Impediments to Fair Housing Choice examines fair housing matters relating to restrictive local zoning, development of affordable rental housing for families with children, coordination of government policies and use of public investments, immigration and

⁶ Id.

language access, fair housing awareness, enforcement, and resources for testing, mortgage lending and the foreclosure crisis, obstacles to mobility, accessibility limitations, and resources for supportive housing. Some notable findings concerning impediments to fair housing as well as key action steps to address such impediments are outlined below. Note that the outlined action steps in this executive summary are primarily steps to be undertaken or more fully implemented. A further treatment of action steps that have already been undertaken over the past five years is incorporated in the discussion section (part III) of this document and in Appendix A.

Data Analysis Highlights:

- Although the existence of residential segregation in Massachusetts, particularly in the Boston area, is not a new finding and has persisted for decades, recent analysis of 2010 Census data highlights how far behind certain metropolitan areas in Massachusetts still are compared to the rest of the country. For example, the Brookings Institute reported that the metropolitan area with the highest segregation scores for Hispanics/Latinos in the country was in the Springfield, MA metropolitan area, while the Boston metropolitan area was the fifth such area after the Los Angeles, New York, and Providence metro areas.⁷
- While there has been some improvement since 2000, there remain high levels of residential segregation between black/African Americans and whites and Hispanics/Latinos and whites, especially in the Boston and Springfield metro areas. Asians are considerably less segregated than blacks/African Americans or Hispanics/Latinos, and their segregation levels have also shown modest improvement since 2000. These improvements notwithstanding, Massachusetts metro areas remain among the most segregated of the nation's 100 largest metros (those with populations of 500,000 or more).
- More than three quarters of the state's cities and towns have black/African American and Hispanic/Latino populations that are severely below the levels expected based on their income distribution according to HUD methodology. More than 57 percent have Asian populations that are severely below predicted levels.
- In 2010, fewer than 43 percent of Massachusetts' lowest income non-Hispanic white households lived in low or very low income "opportunity" communities, but 71 percent of Asian, 93 percent of black/African American, and more than 95 percent of Hispanic/Latino households with similar incomes lived in areas so designated. More striking was the fact that 92 percent of middle income black/African American and Hispanic/Latino households and 90 percent of those in the highest income group (earning over \$60,000 in 2000) lived in one of the ten low or five very low opportunity communities. The corresponding figures for Whites are 34 and 22 percent and for Asians, 61 and 39 percent.

⁷ William H. Frey, "The New Metro Minority Map: Regional Shifts in Hispanics, Asians and Blacks from Census 2010," Brookings Institution Report (August 2011). Note also that patterns of race and ethnic segregation in the Springfield area are discussed in the City of Springfield's draft AI (City of Springfield, Massachusetts, *Analysis of Impediments to Fair Housing Choice*, Draft Report for Public Review, May 28, 2013), which cites its regional housing plan's identification of "zoning as one of our region's primary impediments to fair housing choice."

- The interaction between residential segregation and poverty in Massachusetts also disparately affects racial/ethnic minority groups. Using U.S. Department of Housing and Urban Development (“HUD”) methodology based on a census tract-based definition of racially and ethnically-concentrated areas of poverty (“RCAPs”),⁸ both the RCAPs and the high poverty census tracts that are not majority minority are clustered in just a handful of cities. Of the 89 census tracts that meet the poverty threshold, only 20 do not also meet the 50 percent minority threshold.
- Most analysts agree that an adequate housing supply can help stabilize prices and enhance affordability, but Pioneer Institute researchers⁹ found that local regulations impeded development of all but single-family homes on large lots, the most expensive type of housing. They identified widespread barriers to multifamily housing, town homes, single family houses on small lots, and accessory apartments in owner-occupied homes.
- About 40,000 new market rate and mixed income rental apartments have been created statewide since 2000. Of the 62 percent of units that were not created in cities with a subsidized housing inventory percentage of 10 per cent or more or through adaptive reuse elsewhere (roughly 25,000 units), 59 percent were permitted under the comprehensive permit provisions of Chapter 40B.
- Findings of a proliferation of age restricted development, and not the production of housing for younger families – unless permitted under the state’s affordable housing statute, M.G.L. Chapter 40B, raise serious civil rights concerns. While the forces that contribute to spatial segregation by race and ethnicity are complex and varied, a number of studies have concluded that low density only zoning that reduces the number of rental units, also limits the number of black/African American and Hispanic/Latino residents. By contrast, new production in general, new rental and multifamily production, and new affordable rental production have been shown to be market conditions that promote inclusion of blacks/African Americans and Hispanic/Latino groups.
- Nearly one-third of the Boston metro area’s accessible units – those registered with MassAccess – were permitted under the comprehensive permit provisions of MGL 40B, the state’s affordable housing law. In communities rated “very high opportunity,” 48 percent were permitted under 40B; in “high opportunity” communities, the 40B share was 42 percent.
- Those receiving SSI are among the Commonwealth’s most vulnerable populations: extremely low-income non-elders residents with significant long-term disabilities. Many reside in

⁸ To meet the racial/ethnic concentration threshold a census tract must have a non-White population of 50 percent or more (i.e., non-Hispanic Whites must be in the minority). To meet the poverty threshold the tract must have the lower of 40 percent or more of the population living at or below the poverty line *or* a poverty rate that is three times the average tract rate, weighted by population, for the metro area/region.

⁹ See part V, section 3.

homeless shelters, public institutions, nursing homes, at home with aging parents, or in segregated group quarters, due to the lack of affordable housing in the community.

- Large families (5 or more members) are more prevalent among black/African American, Asian and Hispanic/Latino households than among whites, for renters as well as owners. Extended families are also more prominent among minority group households, especially when they are raising children or caring for elders. Subfamilies, too, are more common. In 2010, just 2.7 percent of Massachusetts' non-Hispanic/Latino white families included three or more generations compared to 6.8 percent of black/African American, 6.9 percent of Asian, and 7.5 percent of Hispanic/Latino families. The average number of persons living in an immigrant household is 2.95 compared to a 2.35 average amongst native households.
- Foreign born residents account for 15 percent of the state's population. More than 976,000 immigrants now call Massachusetts home, 62 percent of them having arrived since 1990. The challenges posed by limited English proficiency vary widely by community. While Boston has the most linguistically isolated households in every major language group, limited English proficiency affects a greater proportion of households in many other communities.
- Despite the breadth of distribution, voucher utilization remains highly concentrated in high poverty areas, and this concentration is more pronounced among black/ African American and Latino voucher holders than of whites or Asians. More than 14 percent of households with tenant-based housing choice vouchers ("HCVs") used their voucher to rent a home in a high poverty census tract. Eleven percent rented in racially concentrated high poverty tracts. In comparison, just 6.5 percent of white voucher holders rented in high poverty areas (3.4% in RCAPs, 3.1% in high poverty white areas) compared to 26.8 percent of Hispanic voucher holders (22.7% in RCAPs, 4.1% in majority white high poverty areas).
- By the time the 2010 Census was conducted, the number of black/African American owners had risen by another 12,300 (35%). The number of Hispanic/Latino owners was up by nearly 20,000 (77%) while the number of Asian owners had climbed by over 24,000 (81%). Despite these gains, the legacy of race-associated bias is evident in the racial and ethnic concentration of homeownership, the high incidence of subprime lending and the concentration of foreclosures in the region's communities of color. Black/African American homeowners, in particular, remain geographically concentrated in a handful of communities, and recent black/African American home buyers have tended to purchase in those same communities. Research on race and concentrated poverty has shown that black/African Americans and Hispanics/Latinos are far more likely to live in high poverty areas than whites with the same incomes.
- Between January 2007 and April 2012, a total of 1,719 complaints were filed with HUD, MCAD, the Cambridge Human Rights Commission, or the Boston Fair Housing Commission, involving allegations of 2,325 acts of discrimination in Massachusetts (and citing 2,286 bases for the alleged discriminatory acts). Complaints were filed in 195 cities

and towns, in every region of the state. The Greater Boston region represented 60 percent of the caseload.

- The basis on which most complaints were filed is discrimination based on disability (29.3%), followed by claims of race discrimination (19.4%), discrimination against children (11.0%), public assistance (8.1%), and national origin (7.5%). This pattern was consistent across regions. The combination of complaints alleging discrimination based on children plus those based on family status (3.6%) and lead paint (5.0%), both of which may indicate an unwillingness to rent to families with young children, totaled 19.6 percent of all alleged violations.

Action Step Highlights:

- Invest and preserve resources to improve opportunities for a range of households in impacted areas
 - Massachusetts neighborhoods that are identified and impacted by concentrated poverty, which also tend to be areas of racially/ethnically concentrated poverty and new immigrants, often suffer disinvestment. While new federal initiatives such as Choice Neighborhoods are being implemented, the state is also focusing on initiatives to spur investment in distressed communities, including through the MassWorks funding priority for Gateway Cities, incentivizing the development of market rate housing, prioritizing affordable preservation and development to the extent it fosters and is consistent with revitalization, improving minority group concentrated areas that have been impacted by foreclosure through neighborhood stabilization funds, and other initiatives discussed below.
 - DHCD will examine, with input from its partners, how to best measure and evaluate the extent to which neighborhood revitalization actually occurs as a result of housing investment in concert with a revitalization plan.
- Invest and develop policies to increase access to non-impacted areas
 - Given the ongoing patterns of racial/ethnically concentrated areas impacted by poverty in the Commonwealth and the limited affordable housing for families in non-impacted areas, DHCD has made significant alterations to its housing development funding application process to, inter alia, improve the integration of affordable, accessible housing development with access to opportunity locations. DHCD has formulated key funding priority categories that developer applications must satisfy in order to be considered and proceed to full application review: 1) housing for extremely low-income (ELI) individuals, families, and seniors; 2) investment in distressed and at-risk neighborhoods where strategic housing investment has a strong likelihood of catalyzing private investment; 3) preservation of existing affordable housing; and 4) family housing production in neighborhoods and communities that provide access to opportunities. Additional considerations are provided based on

geographic balance, location and transportation, subsidy efficiency, and community development impact.

- DHCD has adopted a more detailed schema for defining and awarding discretionary points for developments based on “location in an area of opportunity” that incorporates strength of public school system and access to employment, higher education, and health care. DHCD will continue to consult with its Fair Housing Advisory Panel members and advocates, researchers, and other stakeholders regarding additional indices and measures of opportunity.
- The housing development community is also subject to fair housing evaluation criteria that will include the types of actions it can take and partnerships it can form with non-profits and other agencies to identify and address access barriers relative to opportunity for residents in the proposed housing development location.
- DHCD seeks to partner with other state agencies to determine state resources that could be best leveraged to ensure housing can be sited in areas that host or provide access to opportunities.
- Address barriers to mobility to higher opportunity areas; fair housing awareness and resources for testing
 - In addition to promoting affordable and accessible housing development in non-impacted locations, fair housing choice must also include opportunities for families and individuals to seek various types of housing across the state. However, such “mobility,” particularly for low-income households, has its own barriers (e.g., inadequate access to resources, high rent, discrimination, language access issues, etc.). In response to various mobility barriers, DHCD included a pilot mobility initiative in its Section 8 Moving to Work Administrative Plan discussed in section 12 below. DHCD may modify this initiative subject to available resources and input from DHCD’s Fair Housing Advisory Panel and other groups. A “unit-based mobility” strategy of connecting mobile vouchers to effective subsidized housing providers in opportunity/non-impacted areas is a potentially cost-effective response that DHCD will further consider interfacing with its housing development priorities.
 - DHCD will continue to utilize its Moving to Work (“MTW”) authority to approve payment standard exceptions without prior HUD approval, which achieves the goals of accommodating many extremely low income persons with disabilities and expanding housing choice options in “low-poverty, high-opportunity” neighborhoods. All housing authorities in non-impacted areas should seek HUD approval to exceed the published fair market rents (“FMRs”) for specified geographic submarkets of a larger FMR area.
 - DHCD will work with partners to improve web-based consumer information on community conditions and opportunities to encourage mobility to non-impacted areas by linking or sharing such information with commonly used websites such as MassAccess and agencies that provide housing search assistance. Regional-based coalitions,

including through HOME consortia or other inter-municipal partnerships and regional housing groups, could also serve as a significant resource for connecting households in higher poverty and racially concentrated areas within a region to lower poverty and non-impacted areas within that region, as well as provide the households helpful information on fair housing resources.

- Additional HUD funding for testing in higher opportunity, suburban areas would provide critical support for state goals and initiatives to promote housing mobility towards such areas. Fair housing testing of landlords and other housing providers/agents can be critical for successfully combatting discrimination; it can be difficult to ultimately prove that a housing provider or agent's actions relating to sales or rentals were based at least in part on a discriminatory motive (although it is important to note that such proof is not always required, such as in reasonable accommodation/modification, design and construction, and disparate impact cases), as well as helping to gauge the prevalence of discriminatory practices. For example, the Fair Housing Center of Greater Boston's testing reveals that discrimination in rental and sales ranges 33%-66% of the time, most frequently based on race and/or national origin. Testing is also vital for increasing awareness in a community of the discriminatory practices that are occurring and for targeting further fair housing education and outreach.
- Increase multifamily housing and address local planning/zoning that may disparately impact fair housing protected classes, including racial/ethnic minority groups, families with children, and persons with disabilities
 - Continue to support zoning reform so that communities will enact and implement zoning and other land use regulations that, to the extent practicable, allow multifamily housing development as of right. Furthermore, in determining whether a housing development site is appropriate under the state's affordable housing zoning law, M.G.L. c. 40B, DHCD and state subsidizing agencies will take into account information provided by a municipality as to whether it has met the purpose of Chapter 40B in meeting regional housing needs. This would include municipal efforts to create zoning districts and/or requirements that provide the opportunity for affordable housing, including affordable housing that is accessible and available to families with children.
 - DHCD will institute a policy related to Subsidized Housing Inventory ("SHI") eligibility, to be finalized in FY 2014, to address the imbalance of age-restricted housing versus housing for families with children.
 - DHCD has also developed a new Compact Neighborhoods Program Policy to incentivize municipal cooperation and proactive planning for multifamily housing development. Under the program, municipalities that are certified by DHCD as creating Compact Neighborhoods will receive a preference for discretionary funding by state agency programs, such as the MassWorks infrastructure program. DHCD expects municipalities, in drafting zoning ordinances, to promote the development of housing across a range of incomes and appropriate for diverse populations, including families with children, persons with disabilities, and elders.

- Implement fair housing evaluation criteria for discretionary grants to communities and housing developers
 - The policy of fair housing evaluation criteria for DHCD discretionary grants and funding proposed in DHCD's Fair Housing and Civil Rights Policy is undergoing further review and is restated, along with new considerations, in part V, section 5 below. With respect to Community Practice for Evaluation, the criteria are intended to reward communities that are making efforts to be inclusionary and affirmatively further fair housing objectives, as opposed to exclusionary practices that frustrate and lead to discriminatory and inequitable outcomes. The criteria for evaluating communities have been organized into 4 "tiers" in order of priority. The first tier prioritizes local action, i.e., zoning/land use bylaws, multi-family permitting denials, diversity of housing (building) types, and availability of subsidized family housing (vs. age-restricted housing). However, due to the number of communities that do *not* seek DHCD discretionary funding, comprehensive and coordinated statewide policy and funding strategies are needed as discussed below.
- Coordinate efforts with other state agencies administering discretionary grants to opportunity area communities
 - Governor Patrick has directed the state's Assistant Secretary for Access and Opportunity to: convene an internal working group, post completion of the Analysis of Impediments, to review the AI and to identify and make policy recommendations to mitigate state public policies that function as impediments to fair housing choice; and (2) convene a second working group, which would consist of state agency representatives, representatives from Action for Regional Equity and other community-based stakeholders to engage a broader effort to promote equity across state policies and programs.
 - DHCD will actively participate in these working groups and contribute policy recommendations, such as coordinating public investments with other state agencies in order to: incentivize municipalities to permit the creation of affordable housing, particularly affordable rental housing for families; address barriers to fair housing choice that impact protected classes and reach beyond DHCD (e.g., affordable/public transportation options, education, etc.); and ensure that investments in lower "opportunity areas" will leverage effective neighborhood revitalization and improve access to opportunity for protected classes.
 - The working groups should examine the feasibility and benefits of a coordinated scoring system, drawing from DHCD's Community Practices for Evaluation relative to discretionary grants, to be utilized by the relevant state agencies.

- Revise housing development approval criteria to require diversity of bedroom sizes in family developments to ensure families with children are adequately served

DHCD continues to evaluate how it may improve housing opportunities for families, primarily families with children, that require larger sized (multiple bedroom) units. For example, DHCD's 2013 and Draft 2014 Qualified Allocation Plan ("QAP") underscores DHCD's priority for the production of rental units suitable for families. At least 65% of the units in a proposed production project must have two or more bedrooms, and at least 10% of the units must have three bedrooms, with exceptions only applying if efficiency or one-bedroom units are appropriate for the intended residents.

- Expand Accessibility

- Accessibility gaps or inadequate accessibility in development exists when developers are not required to incorporate accessibility based on applicable accessibility codes, and it persists when such development is directly or indirectly required for local zoning approval. To ensure non-discrimination and programmatic access for persons with disabilities consistent with the ADA and other disability rights laws, DHCD's policy response aims to address patterns of new development¹⁰ that, because of its size, tenure, or type, or lack of federal funding would otherwise result in limited accessibility.
 - 1) Townhouses
 - 2) Small Projects
 - 3) For-Sale Units
- DHCD will also continue to consider how it may further incorporate concepts of enhanced accessibility and usability, including through Universal Design and Visitability, into funding evaluation criteria as it has done in its Community Based Housing Program and in its QAP, which is applicable to the majority of DHCD subsidized rental developments.
- Developers are in a key position to expand access to both affordable and market rate housing in Massachusetts, particularly to the extent they diversify their development portfolio, i.e., to incorporate non-townhouse multi-family housing and the features of Visitability and Universal Design with a variety of bedroom options, so that persons with mobility, sensory, and/or cognitive impairments, elders, families with children, and all others who can benefit from such features have an equal opportunity to enjoy the housing and the community. Cities and towns are also important gatekeepers of accessibility expansion in Massachusetts. To the extent they do not zone for, or the extent they provide permits with conditions that limit multi-family rental housing that would be accessible, accessibility expansion will continue to be impeded. Consequently, local action that permits or promotes the creation of accessible and Universal Design housing may positively factor into discretionary funding criteria.

¹⁰ DHCD will also encourage application of this policy to rehabilitation projects, although conditions relative to the site, topology, and building structure and size will be considered.

- Increase Supportive Housing
 - DHCD along with 17 other state agencies has entered into a memorandum of understanding to create 1,000 units of permanent, supportive housing for persons with disabilities and other populations with service needs in collaboration with non-profit organizations in accordance with “An Act Relative to Community Housing and Services.” The various types of supportive housing that are being funded will help reduce the numerous barriers to accessing and retaining permanent housing that persons with disabilities and persons who are institutionalized or at-risk of institutionalization, or persons who are homeless, face. The agencies will assess the results and recommend strategic reinvestments. DHCD will be utilizing an award from HUD and working with its partners to further the state’s effort to increase supportive housing units and help hundreds of residents with disabilities avoid homelessness or unnecessary institutionalization. Additionally, DHCD has been targeting new MRVP mobile vouchers, based on funding from the legislature, to homeless families with disabilities.

See part V below and Appendix B for further discussion of action steps, as well as Appendix C for a listing of indicators that may be used for measuring progress.

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I. Introduction

“Access to housing is a key to success and stability, for individuals and families as well as communities.... We must now re-commit to continuing in the spirit of fair housing work. Because despite improvements to the law and the dedicated work of many, the battle for fair housing persists today.”

Governor Deval Patrick, May 21, 2008

The Fair Housing Act was enacted just one week after Dr. King’s assassination on the strength of a federally authorized report by the Kerner Commission, which concluded that America was "moving toward two societies, one black, one white – separate and unequal.” In an effort to eradicate both separation and inequality in housing, the Fair Housing Act established that the civil right to fair housing encompasses the right to choose and enjoy housing, regardless of personal characteristics such as race, national origin, sex, religion, familial status, and disability. It is disheartening that forty years later, the patterns of racial segregation created decades ago, often through government action and policy, persist. A report by the Civil Rights Project at Harvard University in 2005 indicated that 85% of surveyed African Americans and almost 70% of surveyed Hispanics said that members of their respective groups “miss out on good housing at least some of the time” in Metropolitan Boston because they “fear they will not be welcome in existing communities.”¹¹ Data analyzed by the Harvard Civil Rights Project and others has also shown that minority groups, including those of higher incomes, are residentially segregated from other races and concentrated in areas of the Commonwealth that limit options with regard to school choice and job opportunities. And while discriminatory practices related to race and ethnicity remain significant, the challenges to fair housing have expanded to include a variety of households including persons with disabilities and families with school age children.

In Massachusetts today, Governor Deval Patrick’s ongoing priorities of improving education, creating jobs and encouraging civic engagement all factor into the goals established by the Fair Housing Act of 1968. Housing choice is a basic civil right, essential to endowing individuals and families with the opportunity to have a choice in the selection of schools, access to job opportunities, and an ability to engage as fully equal members of their community. The principle of fair housing – that all individuals and families should have equal access to housing where ever it is situated – is fundamental to creating communities of equal opportunity. The exercise of such a right requires freedom from the impediments of discriminatory rental, sales, and lending practices, segregative zoning and land use practices and from other barriers to housing choice and residence in communities of opportunity.

The Commonwealth cannot achieve the letter or spirit of the Fair Housing Act and other civil rights laws until we all make our housing and our communities open and welcome to all. We must move beyond past practices of promoting housing in a manner that welcomes “our residents”, “empty nesters,” “active” adult lifestyles, or that indicates an aversion to school age children. For Massachusetts to be the best it can be, we cannot afford to ignore housing issues that face us and, whether through ignorance, oversight or intention, participate in perpetuating the practices and patterns that challenge our commitment to fair housing.

¹¹ Louie, Josephine, “We Don’t Feel Welcome Here: African Americans and Hispanics in Metro Boston,”The Civil Rights Project at Harvard University (April 2005).

II. Background

In preparation of this update to the Analysis of Impediments to Fair Housing Choice (“AI”), DHCD reconvened its Fair Housing Advisory Panel, which includes fair housing advocates, federal (HUD), state, and local officials, for-profit and non-profit agencies, and other stakeholders.

DHCD also convened a Fair Housing Panel in developing its Fair Housing Mission Statement and Principles¹² and completion of the June 2007 AI. DHCD later expanded its analysis of fair housing impediments and included responsive implementation planning through its Affirmative Fair Housing and Civil Rights Policy in April 2009.¹³ With the Panel’s input, the Policy consists of the following components: legal context; policy goals; implementation methods for leveraging financial resources to further fair housing, including fair housing evaluation criteria for discretionary funding of project sponsors/developers and municipalities and promotion of diverse housing types for families with children and persons with disabilities; broadening access for persons of limited English proficiency; and affirmative fair housing initiatives. Full implementation of the policies and detailed action steps is expected to take several years, but key objectives for the 2010-2014 period can be found in the Consolidated Plan.

Additionally, consistent with HUD’s September 2, 2004 Memorandum, DHCD includes actions it plans to overcome the effects of impediments to fair housing choice through its Consolidated/Action Plans. Such Plans are available at:

<http://www.mass.gov/hed/community/planning/consolidated-and-action-plans.html> .

III. Fair Housing Legal Context

The promotion and exercise of fair housing requires freedom from the impediments of discriminatory rental, sales, lending and insurance practices, exclusionary zoning and land use practices, and from other barriers to housing choice and residence in communities of opportunity. There is an extensive legal framework addressing these issues that creates obligations on the Commonwealth, as a whole, on DHCD and other housing agencies in particular, on municipalities, and on private entities involved in housing and community development activities. The legal framework establishes two distinct although related obligations: (1) to not discriminate, including the prohibition on creating “disparate impact,” and (2) to affirmatively further fair housing.

Duty Not to Discriminate and Disparate Impact

State and federal laws, including the Massachusetts anti-discrimination law (Massachusetts General Laws Chapter 151B), the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended), Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act, prohibit

¹² <http://www.mass.gov/hed/docs/dhcd/hd/fair/03.pdf> .

¹³ <http://www.mass.gov/hed/docs/dhcd/hd/fair/affirmativefairhousingp.pdf>.

discrimination in housing. In Massachusetts, discrimination because of the following is prohibited: race; color; national origin; religion; sex; disability/handicap; familial status/children; marital status; age; sexual orientation; gender identity; military status (veteran or member of the armed services); public assistance reciprocity/housing subsidy; genetic information; and ancestry.

Discriminatory housing practices include: refusing to rent, sell, negotiate, or otherwise make unavailable or deny a dwelling; steering; discriminatory terms, conditions, or privileges or discriminatory provision of facilities or services; discriminatory statements, notices, and advertising; misrepresenting availability; blockbusting; refusing to make reasonable accommodations and/or modifications for persons with disabilities; non-compliance with federal and state accessibility design and construction requirements; discriminating in residential real-estate related transactions, credit, and brokerage services; sexual harassment; and interfering, coercing, intimidating, or threatening any person in the exercise or enjoyment of their fair housing rights. Additionally, the Massachusetts law also prohibits denial of housing and discrimination against families with children under six years of age because of the existence of lead paint.¹⁴

Disparate impact is an important legal theory in which liability based upon a finding of discrimination may be incurred even when the discrimination was not purposeful or intentional. Generally, under federal precedent, the disparate impact theory applies when the plaintiff is able to prove through strong statistical evidence, that a rule or policy, albeit neutral on its face, has an adverse effect on persons protected under fair housing laws. However, in the *Langlois v. Abington Housing Authority* case, a Massachusetts federal court recognized a disparate impact claim, absent any showing of intent, where the defendant local housing authorities failed to affirmatively further fair housing to evaluate and address such an impact.¹⁵ The court also imposed the burden on the defendant housing authority to show that its actions were the least discriminatory alternative.¹⁶ Disparate impact theory has also been used successfully with perpetuation of segregation claims.¹⁷

DHCD, then the Executive Office of Communities and Development, also previously opined (in 1986) on disparate impact in the context of state-aided public housing minority affirmative action preferences for tenant selection:

Disparate impact on racial minorities cannot be ignored by a state agency charged with regulatory oversight of a state wide, publicly supported housing program. Remedial efforts are justified and warranted. Nor is the effect likely to change without such

¹⁴ M.G.L. c.111, § 199A.

¹⁵ 234 F. Supp. 2d 33 (D. Mass. 2002) (finding disparate impact on minority groups where the community had a smaller proportion of minority residents than the larger geographical area in which Section 8 applicants were drawn, where local preferences applied to the PHA program waiting lists led to significantly fewer minority groups actually participating in PHA programs than minority groups waiting to participate in PHA programs, and where the justification of need for the residency preferences was not sufficient); *see also Comer v. Cisneros*, 37 F.3d 775 (2d Cir. 1994).

¹⁶ *Id.*

¹⁷ *See e.g., Huntington Branch, NAACP v. Town of Huntington*, 844 F.2d 926 (2d Cir. 1988), *aff'd* 488 U.S. 15 (1988).

affirmative efforts given the percentages of local minority residents in the state's communities.¹⁸

Some federal courts have required some showing of discriminatory intent when evaluating whether the public defendant has a legitimate justification for its actions.¹⁹ However, in contrast to equal protection claims under the U.S. Constitution, the Supreme Court has held that evidence of discriminatory intent is *not* necessary under a federal statutory prohibition against discrimination.²⁰

HUD Discriminatory Impact Final Rule

In 2011, HUD proposed a “prohibiting discriminatory effects” rule to confirm that a housing practice by a public or private entity that actually or predictably has a discriminatory effect may violate the Fair Housing Act.²¹ HUD announced its issuance of the “Implementation of the Fair Housing Act’s Discriminatory Effects Standard” Final Rule on February 8, 2013.²² The Final Rule delineates a burden shifting approach in which the complainant/plaintiff must prove its *prima facie* case by demonstrating that a housing practice caused or will cause a discriminatory effect on a group of persons or a community based on race, color, national origin, religion, sex, or disability, after which the burden shifts to the respondent/defendant to prove that the discriminatory effect is still lawful due to a “legally sufficient justification.” Under the Final Rule, a legally sufficient justification requires the challenged practice to be “necessary to achieve one or more substantial, legitimate, nondiscriminatory interests” of the respondent or defendant. The justification must also be supported by evidence and not be hypothetical or speculative. If the respondent/defendant does meet such a burden, pursuant to the Final Rule, the complainant/plaintiff may still win its case by showing that the substantial, legitimate, nondiscriminatory interests could be served by another practice that has a less discriminatory effect. Said rule was subject to challenge depending on the outcome of the Supreme Court’s decision on a disparate impact case on certiorari from the Eighth Circuit in *Mt. Holly Gardens Citizens in Action, Inc. v. Township of Mt. Holly v. Township of Mt. Holly*.²³ However, said case settled in November of 2013, removing the issue from Supreme Court deliberation at this time.

¹⁸ Memorandum by Hollis Young, Chief Counsel, December 1, 1986.

¹⁹ See e.g., *Village of Arlington Heights v. Metropolitan*, 97 S.Ct. 555, 50 L.Ed.2d 450 (1977) (holding that absent evidence of discriminatory purpose, the Village of Arlington Heights could not be held in violation of the Equal Protection Clause of the Fourteenth Amendment for denying the rezoning necessary for the development of low-income housing, even though the denial disproportionately affected African Americans); *Metropolitan Housing Development Corp. v. Village of Arlington Heights*, 558 F.2d 1283 (7th Cir. 1977) (holding the following four-factor analysis should be applied: 1) the strength of the plaintiff’s showing of discriminatory effect; 2) evidence of the defendant’s discriminatory intent (even if insufficient to make out an intentional violation); 3) the defendant’s interest in taking the challenged action; 4) whether the plaintiff seeks to compel the defendant to affirmatively provide housing or merely to refrain from interfering with others who wish to provide housing).

²⁰ See *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) (employment discrimination case in which the Supreme Court held that the absence of evidence of discriminatory intent does not absolve the defendant from liability under Title VII of the Civil Rights Act of 1964).

²¹ Notice of Proposed Rulemaking: Implementation of the Fair Housing Act’s Discriminatory Effects Standard, 75 Fed. Reg. 70921 (November 16, 2011).

²² 78 Fed. Reg. 11460 (Feb. 15, 2013).

²³ 658 F.3d 375, C.A.3 (N.J.) (2011), *certiorari granted*, S.Ct. ----, 2013 WL 2922132 (2013) (Eighth Circuit vacating and remanding action by association and current and former residents of neighborhood against township and township officials on the basis that the redevelopment plan violated various anti-discrimination laws; holding

The Duty to Affirmatively Further Fair Housing

While the obligation not to discriminate is critical, it is the obligation to affirmatively further fair housing that is most commonly overlooked and/or misunderstood, and which establishes the requirement that the Commonwealth and its political subdivisions assume a proactive posture with respect to fair housing. Prohibition of discrimination and/or enforcement of anti-discrimination laws are not sufficient. Liability may arise when there is a failure to affirmatively further fair housing as required. Such a failure may include perpetuating racial segregation patterns and adopting policies and activities that have a disparate impact on a protected class. Case law has not clearly established whether the duty to affirmatively further fair housing under the Fair Housing Act extends to recipients of federal housing and urban development funding beyond government entities, although federal executive orders indicate that the U.S. Department of Housing & Urban Development (“HUD”) is to extend its duty to affirmatively further fair housing to the recipients of its funding. Federal Executive Order 12259 followed by Executive Order 12892 provide that federal agencies shall require applicants or participants of federal agency programs relating to housing and urban development to affirmatively further fair housing. HUD provides examples of potential methods for affirmatively furthering fair housing, such as:

- Establishing fair housing enforcement organizations in needed areas;
- Developing counseling programs promoting housing choice voucher use outside minority group and low-income concentrated areas;
- Providing outreach to housing providers outside minority and low-income concentrated areas;
- Marketing available housing to persons less likely to apply for housing in a particular area; and
- Encouraging banks and other lending institutions to operate in underserved areas and for underserved populations, and to make credit and loan amount determinations that are inclusive to protected classes.

The duty to affirmatively further fair housing also has statutory bases discussed in the Statutory Framework Section below. One such statute is the Housing and Community Development Act of 1974, under which state and local grantees of certain HUD funding are required to certify that they affirmatively further fair housing.²⁴ In order to certify that it has affirmatively furthered fair housing, a jurisdiction must conduct an analysis of impediments to fair housing, take appropriate actions to overcome the impediments identified in the analysis, and maintain records reflecting action and analysis. Under the Consolidated Plan, HUD funded recipients, including DHCD and entitlement communities, are required to: (1) examine and attempt to alleviate housing discrimination within their jurisdiction; (2) promote fair housing choice for all persons; (3)

that plaintiffs established a prima facie case of disproportionate impact in violation of the Fair Housing Act through statistics, and that factual issues existed as to whether township had shown that there was no less discriminatory alternative to redevelopment plan).

²⁴ Note that in the recent case *U.S. ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York* (S.D.N.Y. 2009), the U.S. District Court for the Southern District of New York denied defendant’s motion for summary judgment, finding that Westchester County violated the False Claims Act by knowingly making false certifications to affirmatively further fair housing when its Analyses of Impediments to Fair Housing did not identify impediments on the basis of race.

provide opportunities for all persons to reside in any given housing development, regardless of race, color, religion, sex, disability, familial status, or national origin; (4) promote housing that is accessible to and usable by persons with disabilities; and (5) comply with the non-discrimination requirements of the Fair Housing Act.

HUD Proposed Rule on Affirmatively Furthering Fair Housing

On July 19, 2013, HUD released its proposed rule on “Affirmatively Furthering Fair Housing” (78 FR 43709), defining the term as follows:

Affirmatively furthering fair housing means taking proactive steps beyond simply combating discrimination to foster more inclusive communities and access to community assets for all persons protected by the Fair Housing Act. More specifically, it means taking steps proactively to address significant disparities in access to community assets, to overcome segregated living patterns and support and promote integrated communities, to end racially and ethnically concentrated areas of poverty, and to foster and maintain compliance with civil rights and fair housing laws.²⁵

The proposed rule aims to “refine existing requirements with a fair housing assessment and planning process” and to aid municipalities, states, public housing authorities in affirmatively furthering fair housing (“AFFH”).²⁶ Specifically, the rule proposes submission of a document in place of the AI, the *Assessment of Fair Housing* (“AFH”), which would utilize specific AFFH data furnished by HUD to conduct a fair housing data analysis, an assessment of fair housing issues and determinants, and an identification of fair housing priorities and general goals.²⁷ *Fair housing issue* is in turn defined as “ongoing local or regional segregation or the need to support integrated communities; racial or ethnic concentrations of poverty; disparities in access to community assets; disproportionate housing needs based on race, color, religion, sex, familial status, national origin, or handicap; and evidence of illegal discrimination or violations of existing civil rights law, regulations, or guidance, as well as any other condition that impedes or fails to advance fair housing choice.”²⁸

Statutory Framework: Key Fair Housing Laws

The Fair Housing Act - Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination on the basis of race, color, national original, religion, sex, familial status, and disability. Title VIII also requires that HUD and all federal executive departments and agencies “affirmatively further” the Fair Housing Act.²⁹ This obligation has been interpreted to extend to recipients of HUD funding thereby extending affirmative fair housing requirements, at a

²⁵ 78 FR 43709, 43729 (to be codified at 24 C.F.R. § 5.152).

²⁶ 78 FR at 43710.

²⁷ 78 FR at 43729 (to be codified at 24 C.F.R. § 5.152).

²⁸ 78 FR at 43730 (to be codified at 24 C.F.R. § 5.152).

²⁹ 42 U.S.C. §3608(d).

minimum, to state and local jurisdictions, and, arguably, to the ultimate grantee of such funds.³⁰

The Housing and Community Development Act of 1974 - Requires Community Development Block Grant (“CDBG”) recipients, states and local governments, to affirmatively further fair housing by promoting housing opportunity for the classes of persons protected under the Fair Housing Act. The award of CDBG funds is conditioned on the certification by the state or local government that it will affirmatively further fair housing.³¹

The Quality Housing and Work Responsibility Act of 1998 - Applies to public housing and public housing agency-administered (“PHA”) Housing Choice Voucher programs and requires certification to affirmatively further fair housing.³²

Title VI of the Civil Rights Act of 1964 - States that no person “in the United States” shall be discriminated against on the basis of race, color, or national origin by an entity receiving federal financial assistance.”³³ The entity must perform governmental functions, or be principally engaged in the business of providing education, health care, housing, social services, or parks and recreation. The U.S. Department of Justice (“DOJ”) and HUD have also issued guidance on national origin discrimination against individuals with limited English proficiency.³⁴ Enforcement of Title VI is primarily conferred on those federal agencies extending financial assistance to the program or activity.

The Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 –

Title II of the Americans with Disabilities Act of 1990 (ADA), as amended, prohibits discrimination against persons with disabilities in services, programs, or activities by state and local governments and their departments, agencies, and instrumentalities, while Section 504 prohibits such discrimination by recipients of federal financial assistance.

Chapter 151B of the Massachusetts General Laws –

Chapter 151B closely mirrors the Fair Housing Act. However, Chapter 151B significantly expands the classes of persons³⁵ protected under the Fair Housing Act and reduces the exemptions from liability available to a housing provider under the Fair Housing Act. Chapter 151B does not independently impose an obligation to “affirmatively fair housing.”

³⁰ Case law has not clearly established whether the duty to affirmatively further fair housing extends to recipients of federal housing and urban/community development funding beyond government entities, although federal executive orders indicate that HUD is to extend its duty to affirmatively further fair housing to the recipients of its funding. Federal Executive Order 12259 followed by Executive Order 12892 provide that federal agencies shall require applicants or participants of federal agency programs to affirmatively further fair housing.

³¹ 42 U.S.C. §5304(b)(2)).

³² (P.L. 105-276), amending Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

³³ 42 U.S.C § 2000d *et seq.*

³⁴ Enforcement of Title VI of the Civil Rights Act of 1964-National Origin Discrimination Against Persons with Limited English Proficiency, 67 FR 41455 (June 18, 2002); Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons; Notice, 72 FR 2732 (January 22, 2007).

³⁵ Chapter 151B also protects on the basis of age, ancestry, children, genetic information, marital status, public assistance reciprocity, religion, sexual orientation, gender identity, and veteran/military status.

Chapter 40B of the Massachusetts General Laws –

Although Chapter 40B is not ostensibly a “Fair Housing” statute, without it, the impact of local exclusionary zoning would likely have increased rather than decreased residential segregation in Massachusetts.

Massachusetts Executive Order 526 –

Governor Patrick’s Executive Order 526 (2011),³⁶ an “Order Regarding Non-Discrimination, Diversity, Equal Opportunity, and Affirmative Action,” provides that “Equal opportunity and diversity shall be protected and affirmatively promoted in all state, state-assisted, and state-regulated programs, activities, and services.” Although Patrick’s Order maintains an employment focus, its language clearly is broad and comprehensive. Therefore, Executive Order 526 should be interpreted and implemented as requiring the State to undertake affirmative action in its decision-making and funding processes. Additionally, Governor Patrick’s Executive Order 519 (2010), “Establishing the Office of Access and Opportunity within the Executive Office of Administration and Finance” (ANF), provides that the Office shall be headed by Assistant Secretary of Access and Opportunity, who is appointed by the Governor and required to report to the Secretary for ANF, to oversee a coordinated and strategic approach to equal opportunity in state employment, programs, services, activities, and decision-making.

Fair Lending Laws

In addition to anti-discrimination provisions under the federal Fair Housing Act and Massachusetts General Laws Chapter 151B, which prohibit any person or entity whose business includes engaging in residential real estate-related transactions from discriminating in making available such a transaction, or in the terms or conditions of such a transaction, because of a person’s membership in a protected class, the following laws also regulate lending practices:

Equal Credit and Opportunity Act of 1974 (ECOA)

The Equal Credit and Opportunity Act (ECOA) prohibits discrimination in *any* aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of assistance, and the good faith exercise of any right under the Consumer Credit Protection Act.³⁷ If the credit transaction involves residential property, individuals may file a complaint with the HUD or may file a lawsuit in court. Moreover, federal agencies have regulatory authority over certain types of lenders and monitor creditors for their compliance with ECOA. If it appears that a creditor is engaged in an unlawful pattern or practice, ECOA requires these agencies to refer the matter to the Justice Department.

The Massachusetts Predatory Home Loan Practices Act

The Massachusetts Predatory Home Loan Practices Act³⁸ requires that lenders with 50 or more home mortgage loans in the last calendar year be examined for their compliance with fair lending

³⁶ Superseding Executive Order 478 (adds gender identity or expression).

²² Title VII of the Consumer Protection Act of 1974 (as amended), Section 701 of the Equal Credit Opportunity Act of 1974, Pub. L. 93-49, tit. V, 88 Stat. 1500, 15 U.S.C. §§ 1691-1691f.

²³ M.G.L. Chapter 183C, Section 8.

laws including the Home Mortgage Disclosure Act (“HMDA”) and ECOA in addition to the Predatory Home Loan Practices Act. Examples of predatory lending practices include loan flipping (refinancing of loans repeatedly in a short time, sometimes with prepayment penalties, that strips home equity), excessive fees, concealed fees, and other types of lending practices that are made regardless of the borrower’s ability to repay that increase the danger of default and foreclosure.

Note: recent Massachusetts legislation regarding unfair lending practices and foreclosure prevention is discussed in section 11 below.

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), the Consumer Financial Protection Bureau (“CFPB”) works with DOJ and other regulators to enforce federal fair lending laws including ECOA, as well as HMDA. The Dodd-Frank Act also authorizes the CFPB to: perform HMDA rulemaking; conduct joint fair lending investigations with the DOJ; and administer and enforce the Real Estate Settlement Procedures Act (RESPA), which requires lenders to provide borrowers a good faith estimate (“GFE”) of loan costs and to whom associated fees will be paid.

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1. Introduction

The economic landscape and housing market conditions have changed significantly in Massachusetts and across the country since the Department of Housing and Community Development (DHCD) prepared its last Analysis of Impediments to Fair Housing Choice (AI). Issued in 2007, that analysis had been undertaken the preceding year, after the housing Massachusetts housing market had faltered but before the breadth and depth of the market turmoil was evident. This new data analysis has been prepared at DHCD's request to inform its current fair housing planning (FHP) efforts. Typically the AI is prepared at the same time as the Consolidated Plan, and most of the requisite background data (demographic, income and employment data, housing profile, etc.) would have been used in development of that plan as well. However, several important new datasets have become available since the Commonwealth submitted its most recent Consolidated Plan in 2010. These include:

- The 2010 Decennial Census
- Information collected for 2011 under Chapter 334 of the Acts of 2006 (Data Collection for Government Assisted Housing in Massachusetts) on the number and location of assisted housing units and resident characteristics
- HUD's 2009 *Picture of Subsidized Households*, which complements the data collected under the state statute
- The 2006-2010 American Community Survey (ACS), providing detailed demographic and housing data at the municipal (and census tract) level³⁹
- The 2010 Comprehensive Housing Affordability Strategy (CHAS) data, based on the 2005-2009 ACS
- A set of data and analytical tools prepared by HUD's Office of Policy Development and Research to help grantees participating in its Sustainable Communities Regional Planning Grant (SCRPG) program quantify and interpret key fair housing metrics

Our detailed review of these and other resources furthers our understanding of the dynamics of fair housing. This data analysis represents a critical first step to achieving DHCD's – and HUD's – goal of affirmatively furthering fair housing (AFFH), eliminating racially and ethnically concentrated areas of poverty, reducing segregation, and increasing access to areas of high opportunity. The findings and insights gleaned from our analysis are summarized in this report. The accompanying appendices provide additional information, including detailed tables at the municipal and regional level.

The data analysis provides an overview of the current state of the housing market in the Commonwealth's seven major economic regions, identifying existing housing needs and evolving challenges. It describes how changing demographics, market forces, economic conditions, and public policies affect the population at large, but its focus is on how they influence housing choice for people of color, families with children, persons with disabilities, and other protected classes.

Geographic Framework of the AI Data Analysis

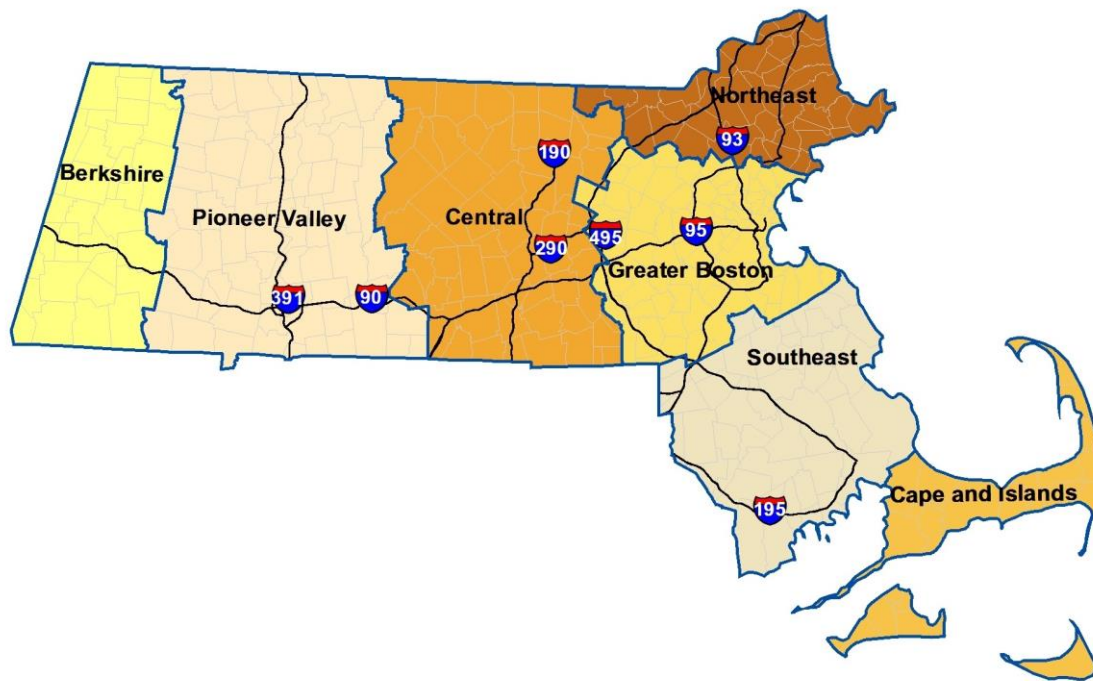
This assessment uses as its framework the seven regions tracked in *MassBenchmarks*, the quarterly economic journal published by the University of Massachusetts in cooperation with the Federal Reserve

³⁹ As this data analysis was being readied for publication the 2009-2011 and 2007-2011 versions of the ACS were released, and some of those data have been incorporated as well.

Bank of Boston. The regions were defined by the UMass Donahue Institute in 1998, after careful analysis of the geographies used by the Massachusetts Office of Business Development and the state's Regional Planning Agencies, with modifications based on reviews by regional experts and entities. This same framework has been used as the basis of the Commonwealth's 2005-2009 and 2010-2014 Consolidated Plans and the 2009 statewide housing market analysis commissioned by DHCD.

The seven regions, illustrated in **Map 1.1**, are: Berkshire, Cape and Islands, Central, Greater Boston, Northeast, Pioneer Valley, and Southeast. The boundaries of the Berkshire, Pioneer Valley and Cape and Islands regions are coterminous with county boundaries. The other four regions approximate, but do not correspond precisely to the following counties: Northeast – Essex County; Greater Boston – Suffolk, Middlesex and Norfolk Counties; Central – Worcester County; and Southeast – Bristol and Plymouth Counties. Not all relevant data are maintained at the regional level. In cases where they are not, or where data at the municipal level are not current, the analysis has incorporated findings from other data sources that report information for different geographies (e.g. county, MSA, etc.). The companion map (**Map 1.2**) identifies the major subregions, or market areas, within each Benchmark region.

Map 1-1: MassBenchmarks Regions



Map 1-2: MassBenchmarks Regions with Subregions

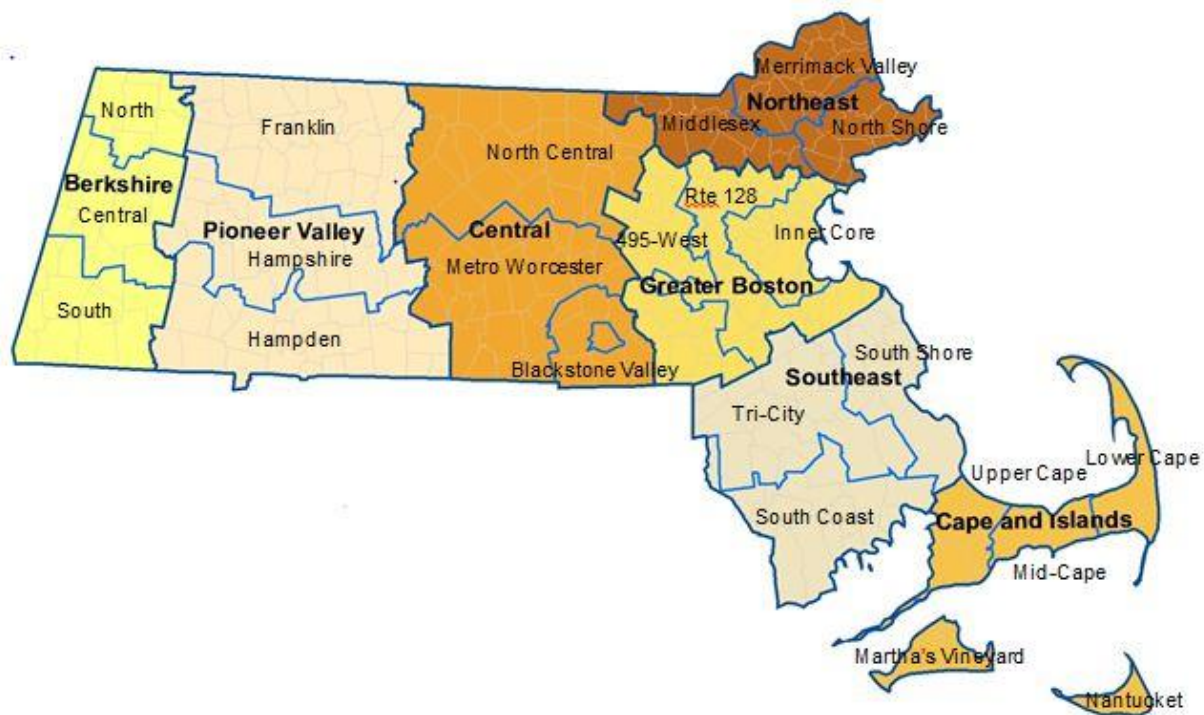


Table 1-1 presents a snapshot of the seven regions, which are described more fully in **Section 2**. Most data are analyzed at the state, region, sub-region and/or municipal level. The exceptions are those municipalities that have large populations of color and significant differences at the census tract level in income, poverty, race, etc. Boston is the most notable example, and its housing trends and patterns of segregation and integration have been assessed at the planning district (neighborhood) level. Much of the analysis describes housing needs and disparities among racial and ethnic groups by household type and income according to the income classification system used by the U.S. Department of Housing and Urban Development (HUD):

- Extremely low income (abbreviated as ELI) - less than or equal to 30 percent of the area median family income (AMI)
- Very low income (VLI) - greater than 30 percent but less than or equal to 50 percent of AMI
- Low income (LI) - greater than 50 percent but less than or equal to 80 percent of AMI
- Moderate income (MI) - above 80 percent of AMI but less than or equal to the AMI

Table 1.1: Regions at a Glance

Sub-region	# Municip- alities	Population				Employment				New Construction 2000-2011					
		2010 Population	Land Area (Sq. Miles)	Population Density 2010*	% of Region's 2010 Population	% of State's 2010 Population	% of State's Population Growth 2000- 2010 or (Share of Loss) [^]	% of Region's Jobs	% of State's Jobs	Unemploy- ment Rate	Units in multi-family (5+) bldgs permitted	Total units permitted	% of Region's 2000 Hsg Units	% of State's 2000 Hsg Units	% of Region's New Housing (2000-2011)
MASSACHUSETTS	351	6,547,629	8,565.9	764		100.0%			100.0%	6.6%	134,630	186,980		100.0%	100.0%
Berkshire	32	131,219	917.2	143		2.0%	-36.5%		1.9%	6.8%	2,951	452		2.3%	1.8%
Central	12	73,839	359.7	102	56.3%	0.6%	-10.6%	63.3%	1.2%	6.9%	1,437	413	1,850	56.2%	54.4%
North	8	36,556	189.6	389	27.9%	1.1%	-20.2%	20.9%	0.4%	7.7%	427	12	439	28.1%	12.9%
South	12	20,824	367.9	57	15.9%	0.3%	-5.6%	15.8%	0.3%	5.1%	1,087	27	1,114	15.7%	32.7%
Boston	75	2,679,494	1,005.3	2,666		40.9%	40.6%		51.0%	5.4%	29,792	34,243		41.7%	34.2%
Inner Core	20	1,627,441	193.5	8,411	60.7%	24.9%	40.6%	62.7%	31.9%	5.5%	9,010	22,109	31,119	26.2%	16.6%
128	30	632,152	378.0	1,672	23.6%	9.7%	6.7%	23.1%	11.8%	5.1%	10,758	9,288	20,046	22.7%	31.3%
495-West	25	419,901	433.8	968	15.7%	6.4%	8.7%	14.2%	7.2%	5.2%	10,024	2,846	12,870	14.5%	6.1%
Cape & Islands	23	242,595	1,287.1	188		3.7%	-40.5%		3.2%	8.3%	15,359	922	16,281	4.3%	8.7%
Cape Cod	15	215,888	1,135.5	190	89.0%	3.3%	-61.9%	86.7%	2.8%	8.3%	11,335	895	12,230	3.9%	75.1%
Martha's Vineyard	7	16,535	103.8	159	6.8%	0.3%	0.7%	7.7%	0.3%	9.2%	2,081	27	2,108	6.1%	12.9%
Nantucket	1	10,172	47.8	213	4.2%	0.2%	0.3%	5.6%	0.2%	8.9%	1,943	0	1,943	3.5%	11.9%
Central	62	793,173	1,578.7	502		12.1%	22.4%		9.7%	7.4%	26,415	2,326	28,741	11.5%	15.4%
Blackstone Valley	10	93,425	197.4	473	11.8%	1.4%	5.2%	6.8%	0.7%	6.7%	4,976	47	5,023	10.7%	17.5%
Meiro Worcester	27	451,596	635.3	711	56.9%	6.9%	12.7%	67.2%	6.5%	7.2%	12,965	1,655	14,620	57.6%	66.9%
North Central	25	248,152	746.0	333	31.3%	3.8%	4.5%	26.0%	2.5%	8.0%	8,474	624	9,098	31.7%	31.7%
Northeast	42	957,870	705.4	1,358		14.6%	13.2%		13.0%	6.8%	18,591	9,289	27,880	14.1%	14.9%
Merrimack Valley	15	333,748	267.4	1,248	34.8%	5.1%	7.3%	32.4%	4.2%	7.8%	6,707	2,221	8,928	4.8%	32.0%
Middlesex	13	360,461	241.0	1,496	37.6%	5.5%	4.2%	37.2%	4.8%	6.3%	7,838	3,143	10,981	36.0%	39.4%
North Shore	14	263,661	197.0	1,338	27.5%	4.0%	1.7%	30.4%	3.9%	6.1%	4,046	3,925	7,971	29.9%	28.6%
Pioneer Valley	69	692,942	1,849.4	375		10.6%	6.2%		8.9%	7.3%	13,121	992	14,113	10.7%	7.5%
Franklin	26	71,372	702.0	102	10.3%	1.1%	-1.6%	9.2%	0.8%	6.2%	1,891	0	1,891	11.3%	13.4%
Hampden	23	463,490	618.4	749	66.9%	7.1%	3.5%	69.5%	6.2%	8.3%	7,295	660	7,955	67.2%	56.4%
Hampshire	20	158,080	529.0	299	22.8%	2.4%	2.8%	21.3%	1.9%	5.4%	3,935	332	4,267	21.5%	30.2%
Southeast	48	1,050,336	1,222.8	859		16.0%	16.5%		12.3%	8.0%	28,401	4,126	32,527	15.4%	17.4%
Tri-City	21	477,758	513.7	930	45.5%	7.3%	8.6%	47.4%	5.8%	7.2%	12,273	2,430	14,703	43.9%	45.2%
South Shore	12	207,679	298.7	695	19.8%	3.2%	5.1%	18.1%	2.2%	6.1%	7,474	758	8,232	18.5%	25.3%
Southcoast	15	364,899	410.4	889	34.7%	5.6%	2.8%	34.5%	4.3%	10.1%	8,654	938	9,592	37.5%	29.5%

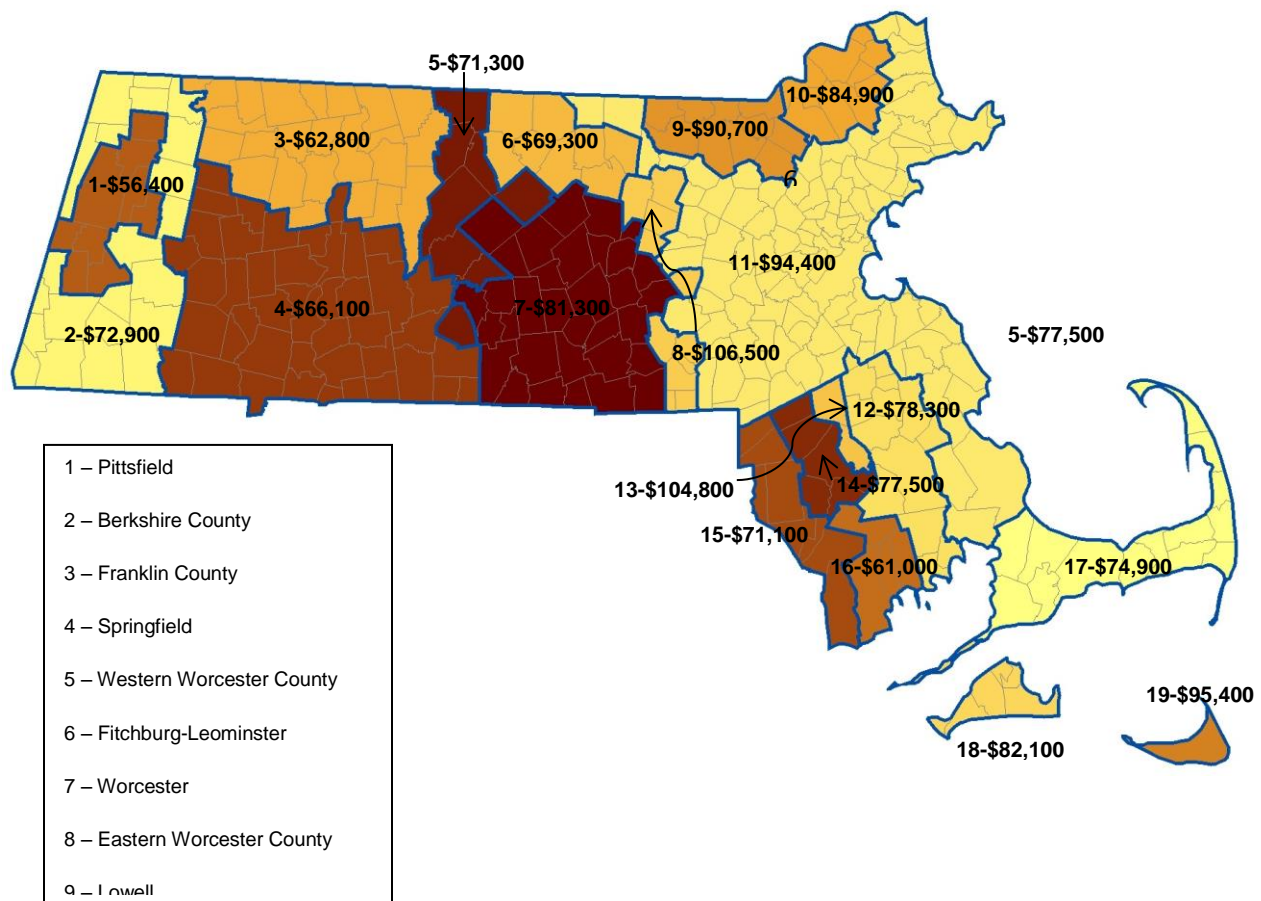
* Population per square mile of land area

[^] 208,771 pop gain in 15 subregions offset by losses of 10,239 in 5 others yields net change of 198,532

Source: Population - 2000, 2010 Decennial Census; Employment - MA Division of Unemployment Assistance ES-202 Series and LAUS series reports, April 2012; new construction - U.S. Census Bureau Building Permits Survey (annual, 2000-2011)

HUD typically defines “area median income” at the metropolitan area, or county, level, and it recognizes nineteen separate Fair Market Rent (FMR) Areas, or HMFAs, in Massachusetts.⁴⁰ As a result, the qualifying income for HUD programs will vary from one part of the state to another as will what is considered extremely low income, very low income, etc. **Map 1.3** identifies the HUD fair market rent areas. The most recent HUD-published median family incomes for Massachusetts (FY2013) range from \$56,400 in the Pittsfield HMFA to \$106,500 in the Eastern Worcester County HMFA. Most of the state is included in the Boston Cambridge Quincy MA-NH HMFA, which had an estimated median family income of \$94,400.

Map 1-3: HUD Area Median Family Income (HAMFI) Regions



Classes Protected by Fair Housing Laws

Massachusetts residents are protected under federal, state and local fair housing laws. Title VIII (the federal Fair Housing Act) protects against discrimination based on race, color, religion, sex,

⁴⁰ A number of the HMFAs have the same income eligibility thresholds.

disability, familial status, or national origin. The Massachusetts fair housing laws, codified in Chapter 151B of the General Laws, provide for broader coverage, prohibiting discrimination based on race, color, religion or creed, marital status, disability, military status, presence of children in the household, national origin, sex, age, ancestry, sexual preference, source of income (including rental assistance), and gender identity or expression.

Fair Housing versus Affordable Housing

While the specific obligation to “affirmatively further fair housing” is linked to programs that are designed to create affordable housing, HUD’s *Fair Housing Planning Guide* and established case law make it clear that fair housing planning must consider not only conditions in affordable housing, but all private sector actions, omissions, and decisions that restrict housing choice.

“Fair housing” and “affordable housing” are distinctly separate concepts in law and public policy, but they are interrelated.⁴¹ The fair housing statutes were enacted to ensure that members of the protected classes – regardless of income or need for assisted housing – would not face discrimination in the sale, rental, financing, and insuring of housing. Without an adequate supply of housing that is affordable and accessible to members of protected classes in healthy communities offering good schools and employment opportunities, they will continue to face barriers. Discrimination, in part, can be reduced by the provision of housing that is affordable for all income groups, especially low and moderate income households, in all communities. For this reason the state’s substantial inventory of assisted housing and tenant-based subsidy programs have received special scrutiny in this analysis.

⁴¹ This paragraph appears also in the City of Boston’s 2010 Analysis of Impediments to Fair Housing and the Metropolitan Area Planning Council’s 2013 Fair Housing Equity Assessment (Draft)

2. Fair Housing Demographics: Statewide and Regional Overview

This section presents a picture of the Commonwealth and its residents in each of the seven Benchmark regions: who they are, how they live, how that has changed over the past decade, what forces are influencing how and where people live, and what it means for protected classes, in particular. It is organized by topic (population and distribution, age, race/ethnicity, immigration and assimilation, households and families, income and poverty, and employment and commuting), with most trends discussed at the household level. The section begins with a brief description of the seven Benchmark regions. Highlights of the data analysis are presented in this section; additional tables and information at the regional and municipal levels are included in **Appendix 2**.

Description of Regions

Overview

Massachusetts is a constellation of these seven distinct economic markets: the Berkshires, Pioneer Valley, the Central region, Cape Cod and the Islands, the Northeast, Southeast and Greater Boston regions. The regions, and the cities and towns that comprise them, vary widely in terms of size, density, historic settlement patterns, governance, socioeconomic profile, and other characteristics. While they share many common issues and challenges, they also face some unique issues. Often, the issues are similar but the severity of the problems and opportunities for addressing them vary from region to region, and within each region, from municipality to municipality. Department of Housing and Community Development (DHCD) recognizes that most issues and forces that limit housing choice are regional in nature. Accordingly, this Analysis of Impediments (AI) examines fair housing issues within the framework of the state's seven major market areas.

Greater Boston

The Greater Boston Region includes all of Suffolk County, most of Middlesex and Norfolk counties, and portions of Plymouth and Essex Counties. It encompasses 15 cities – including 4 of Massachusetts' 10 largest (Boston, Cambridge, Quincy, Lynn) – and 60 towns. The region is the economic engine that drives the Massachusetts economy. The 75 cities and towns radiating out from Boston to Interstate 495 are home to 41 percent of the state's population (2,679,494 residents in 2010). More important, they provide 51 percent of all jobs. The 20 cities and towns including and immediately surrounding Boston – the Inner Core – provide nearly one third of the state's employment. These communities are well served by the Massachusetts Bay Transportation Authority (MBTA) for public transportation and the Massachusetts Water Resources Authority (MWRA) for water and sewer. The Commonwealth's rich cultural, medical and educational resources are concentrated in and around its capital city of Boston. While the region includes the state's most affluent suburbs and concentrations of high income residents within its cities, it also includes some of Massachusetts' poorest urban neighborhoods. It is the most densely populated region of the state.

Over half of the region's extremely low- and very-low income (ELI, VLI) households live in the cities of Boston (34%), Lynn (5%), Cambridge (5%), Quincy (4%), and Somerville (3%). The cities with the greatest concentration of extremely low- and very-low income households are Chelsea, Lynn and Revere. In each of these cities the ELI/VLI population exceeds 40 percent of the total.

Greater Boston's three sub-regions form three roughly concentric rings around the City of Boston: the Inner Region comprises Boston and nineteen cities and towns that surround it, the 128 sub-region includes 30 communities just outside of Route 128, and the 495 West sub-region includes the 25 municipalities stretching from these to the I-495 corridor. The 495 West sub-region, extending from Littleton in the north to Franklin in the south had been one of the state's fastest growing markets, but growth here slowed appreciably during the recession and has been slow to recover in the years since. While Greater Boston's *rate* of growth trails that of surrounding regions, it represents nearly 43 percent of the Commonwealth's *absolute* growth since 2000. Within the region, growth has been unevenly distributed, with the population of some cities and towns stable or declining while others have experienced substantial growth. The City of Boston accounted for over 30 percent of the region's population gain between 2000 and 2010.

Berkshire

The Berkshire region encompasses all 32 cities and towns in Berkshire County. Its largest municipalities are its two cities, Pittsfield and North Adams, where more than half the county's residents live. With a population of just over 131,000 spread across 917 square miles, it is the least dense (142 people per square mile) and the least populous of the regions. The Berkshires face the dual challenge of a population that is both aging and declining in numbers. A self-contained economic and social area, the region has limited interrelationships with the state's other regions. Its population has been declining since 1970, though the rate decline has slowed since 2000. Berkshire County is the least racially and ethnically diverse region of the state, with minority groups representing less than 9.5 percent of the population. Hispanics are the fastest growing population segment, and they constitute the largest minority group, with 3.5 percent of the population identifying themselves as Hispanic or Latino.

The county's three tiers – North, Central and South – form its subregions. The Central region is the most populous, home to 57 percent of the county's residents. The Berkshires draws a large seasonal population, attracted to its many artistic, cultural and recreational amenities, and many have established second homes in the area. Less than 10 percent of the county is developed; the undeveloped remainder consists of water bodies, recreational land, forest, wetlands, and agriculture, giving the county its rural character. The economic base of the region is dominated by the health care and social services industries, which represent nearly one in five jobs. While the largest communities of the county continue to experience population loss, stability – and, in some cases, substantial population growth – has occurred in the hill towns in the southern part of the county.

Cape and Islands

The Cape and Islands Region includes all 15 Barnstable County (Cape Cod) municipalities in addition to the Commonwealth's island counties: Duke's and Nantucket. The former consists of the six Martha's Vineyard towns and the separate island town of Gosnold (Cuttyhunk), the latter, Nantucket town. The region's history is one with the sea. Fishing, whaling, and waterborne trade – along with some agriculture – once provided the foundation of its economy. More recently, though, its growth has been driven by tourism, retirees, and workers commuting to jobs outside of the region. Between 1990 and 2000, the Cape and Islands was the fastest-growing region in Massachusetts, but it lost population between 2000 and 2010. Cape Cod, which had grown by more than 19 percent between 1990 and 2000, lost almost 3 percent of its population between 2000 and 2010. Although both Martha's

Vineyard and Nantucket continued to add population between 2000 and 2010, their growth was just a fraction of what it had been a decade earlier.

The region covers an area of nearly 1,300 square miles, 88 percent of which is on the mainland. With a 2010 population of more than 242,000, it is the second least populous of the state's regions. Reflecting the large number of retirees who have made Cape Cod their home, the median age of Barnstable County residents (49.9 years) is the highest in the Commonwealth and significantly higher than the median age in the state (39.1 years). Although its year round population density is greater only than the Berkshires, substantial development has taken place over the years to accommodate the influx of seasonal and part-time residents. This has created a number of challenges for the region: balancing environmental and economic demands, housing affordability, and seasonal labor shortages, among them.

Central

The Central region comprises 62 municipalities: all of Worcester County, except Bolton, Milford and Southborough, plus the Middlesex County towns of Ayer, Ashby, Groton, Shirley, and Townsend. It covers an area of nearly 1,600 square miles. With a population of over 793,000, it is the fourth most populous region in the state. Its largest municipalities include three cities: Worcester, Leominster and Fitchburg, and the town of Shrewsbury. The Central region's easternmost towns – Groton, Harvard, Westborough, Southborough, Northborough, and Grafton – are affluent bedroom communities with a Greater Boston orientation while Warren, the Brookfields, and the poorer North Quabbin communities have more in common with neighboring Pioneer Valley.

The three major economic subregions are the North Central, Metro Worcester, and Blackstone Valley. North Central is home to a sizable, though dwindling, number of plastics and furniture manufacturers in Fitchburg, Leominster, and Gardner. Worcester, the Commonwealth's second largest city, lies at the center of the Metro Worcester region. While its manufacturing base remains an important economic driver, the area has become the trade and service center for the larger region. An emergent biotechnology industry represents an opportunity for long-term growth.

A number of the region's suburban communities, such as Rutland, Shrewsbury and Westborough have experienced dramatic growth over the past two decades. The latter two have had a substantial influx of Asians, and Asians now represent more than 15 percent of Shrewsbury's population and more than 17 percent of Westborough's. Excluding the state's island communities, the Central region has been the fastest growing area of the state over the past twenty years.

Nearly 48 percent of the region's extremely low- and very-low income low income households live in Worcester (34%), Fitchburg (8%), and Leominster (6%). The communities with the greatest concentration of extremely low- and very-low income households include, in addition to Worcester and Fitchburg (with 36 and 37 percent of their households, respectively, so classified) are Southbridge (38%) and Webster (34%).

Northeast

The Northeast region is bordered on the west by Interstate 495 and on the north by New Hampshire. Its southern tier extends from Rowley on the coast to Westford. In addition to 495, the state's technology highways – I-93 and Route 128 – crisscross the region, which includes most of Essex County and 12 communities in Middlesex County (22 percent of the county's municipalities and 24 percent of its population). The largest cities are Lowell, Lawrence and Haverhill.

The region has had a storied economic history. The mills along the Merrimack River fueled the nation's Industrial Revolution, and they remained the backbone of its economy into the post-World War II era. The region's fortunes fell with exodus of the textile industry, but increased defense spending during the Cold War and the meteoric rise of the minicomputer industry during the 1980s each brought renewed – though short-lived – prosperity. The legacy of this roller coaster economic history is a cluster of innovative national and international high-tech firms, many of them supported by an array of locally-owned companies.⁴²

With a 2010 population of nearly 958,000, the Northeast is the state's third most populous region, home to about 15 percent of the state's population. Covering just 705 square miles, it has the smallest footprint of any region except the Cape and Islands, and it is one of the most densely populated. Nearly one-third of the region's extremely low- and very-low income households (ELI, VLI) live in Lowell (17%) and Lawrence (15%). These two cities have the greatest concentration of extremely low- and very-low income households as well (37% and 52%, respectively).

Among the region's twenty-three cities and towns, some – like Rockport, Gloucester, Marblehead and Manchester – in the North Shore subregion have experienced little or no population growth since 1990. Others – including suburban communities like North Andover, Westford, Wilmington, and Middleton have experienced very high rates of growth.

Pioneer Valley

The Pioneer Valley region comprises all of Franklin, Hampshire, and Hamden Counties. It includes 69 municipalities: 5 cities and 64 towns. Springfield, located at the intersection of the Massachusetts Turnpike and Interstate 91, is the Commonwealth's third largest city and the economic center of the region. With a 2010 population of almost 693,000, the region is home to about 11 percent of the state's population. It encompasses the largest area geographically (1,850 square miles) and is one of the least densely populated parts of the state. The three counties form its subdivisions. Springfield, Chicopee, Westfield, and Holyoke – the largest cities – are located in Hampden County. Hampshire County is home to a cluster of colleges and universities, including the Amherst campus of the University of Massachusetts, while Franklin County – the most rural of Massachusetts' fourteen counties – remains largely undeveloped. The precision metalworking and insurance industries that defined the region in the past still form the backbone of its economic base.

The Valley's mix of city, small town and rural communities, colleges and universities, and relatively low cost of living provide an attractive quality-of-life to those residents able to secure steady employment. Its central cities, however – Holyoke and Springfield, in particular – are among the state's most impoverished communities. Both Springfield and Holyoke are majority minority group cities, but the larger metro area remains highly segregated by race and ethnicity.

Nearly half of the region's extremely low- and very-low income households (ELI, VLI) live in Springfield (32%), Chicopee (9%), and Holyoke (8%). The communities with the greatest concentration of extremely low- and very-low income households include, in addition to Holyoke and Springfield (each

⁴² MassBenchmarks <http://www.massbenchmarks.org/development/regions/northeast.htm>

with 38 percent of households so classified), are the tiny Franklin County towns of Monroe and Hawley, where over 40 percent of all households are extremely-low or very-low income.

Southeastern

The Southeastern region encompasses 48 communities – 5 cities and 43 towns – that cover a diamond-shaped area, with Brockton to the north, Fall River and New Bedford to the south, Plymouth to the east, and Attleboro to the west. It includes all of Bristol County; all of Plymouth County, except Hull and Hingham; plus three towns in Norfolk County (Avon, Stoughton and Plainville).

Southeastern's three sub-regions are: the Tri-Cities of Attleboro, Brockton, and Taunton; the South Shore, extending down Route 3 from Boston; and the South Coast, connected by I-195 along Buzzard's Bay and into Rhode Island. The South Shore is the smallest, but fastest growing sub-region, largely a suburban adjunct to the Boston metropolitan economy. The Tri-Cities area, the largest sub-region, is transitioning from traditional manufacturing into an economy anchored by services and high-tech manufacturing. The South Coast, anchored by New Bedford and Fall River, remains more dependent on traditional manufacturing – textiles and apparel, in particular – than other parts of Southeastern Massachusetts. I-195, its major highway links it more closely to Providence than to Boston.

With a 2010 population totaling 1,050,336, the Southeastern region is the state's second most populous area. It has been growing at a slightly faster rate than the state as a whole since 1990. Spanning more than 1,222 square miles, it has a population density of 830 residents per square mile. Brockton, one of the state's eight "majority minority" cities, surpassed New Bedford as the region's largest city in 2000, but by 2010 New Bedford had reclaimed that distinction. Forty-six percent of the region's extremely low- and very-low income residents live in Fall River (18%), New Bedford (16%), and Brockton (12%).

Overall Population Change and Shifts by Region

Massachusetts has been a relatively slow growth state for many years. International immigration has nearly offset domestic outmigration, but the state's population growth since 2000 has come largely through natural increase (number of births minus number of deaths). The 2010 Census reported that Massachusetts gained just under 200,000 residents between 2000 and 2010. Since that time, it has added another 40,000, bringing the 2011 total population to 6,587,536. This rate of growth – just 3.8 percent since 2000 – ranked 42nd among all states for this period. **Table 2.1** documents these changes. Without international immigration, the state would have lost nearly 43,000 residents. (**Inset 2.1** discusses Massachusetts population trends since 2010.)

Table 2.1: Population Growth in Massachusetts, April 1, 2000 – July 1, 2011

Component of change	Absolute change	Percent change	Rank among states by absolute change	Rank among states by percentage change
Total increase	238,439	3.8%	30	42
Natural increase	266,257	4.2%	22	40
Net migration	-658	0.0%	38	38
<i>International</i>	281,299	4.4%	9	8
<i>Domestic</i>	-281,957	-4.4%	43	43

Source: <http://www.census.gov/popest/research/eval-estimates/CO-EST2010-ALLDATA.csv>

There has been wide variation in absolute population change as well as rate of change among regions and within the regions, as documented in **Table 2.2**. The differences within regions at the municipal level, even among similar neighboring communities, are even more striking as **Maps 2.1 and 2.2** illustrate. Between 2000 and 2010, 251 cities and towns added population, (gaining 235,782 residents), while another 100 lost population (37,250). Map 2.1 depicts the absolute change in population by city and town between 2000 and 2010 while Map 2.2 shows the percentage change.

Inset 2.1: Massachusetts Population Trends Since 2010: Continued Modest Population Growth

In January 2013 the Massachusetts State Data Center at the UMass Donahue Institute reported that the latest population estimates from the U.S. Census Bureau's 2012 State-Level Population Estimates program revealed that the state's population had increased by 98,515 between the April 1, 2010 (the date of the last Decennial Census) and July 1, 2012, bringing the new total to 6,646,144 persons, and maintaining the Commonwealth's rank as the 14th most populous state in the U.S.* This 1.5% cumulative increase ranks Massachusetts as the fastest growing state in the Northeast in terms of percentage growth, although it still trails the national rate (1.7%) and is substantially lower than the 2.5% and 2.3% experienced by the Southern and Western states. Nationally, Massachusetts ranked 28th for percentage growth – up from 33rd in the 2010 to 2011 period – and 13th for numerical growth – up in rank from 20th last year. The recent population gains reflect a net natural increase (births less deaths) of 18,779, a net outmigration of 9,613 persons to other states and a net inflow of 30,416 persons from other countries.

The new population estimates document an upward growth trend for the state. During the last decade, the average annual growth was about 0.3%, or an average population increase of just 19,245 per year. From 2001 to 2004, the state's growth rate was declining, and in 2004 Massachusetts actually lost population. The situation turned around after 2005 due in part to a reversal of domestic out-migration. Domestic out-migration peaked in 2005 when an estimated 55,077 more people moved out of Massachusetts for other parts of the U.S. than moved in. By 2009, however, the reverse was true: more people moved into the state than left, as the Massachusetts economic recovery outpaced that of the nation. The new 2012 estimates show that, once again, more people are leaving the state than are moving here from other parts of the U.S. They also show – as is typical for Massachusetts – that international immigration offsets the negative domestic out-migration, for a positive net migration into the state total of 20,803 persons since 2010.

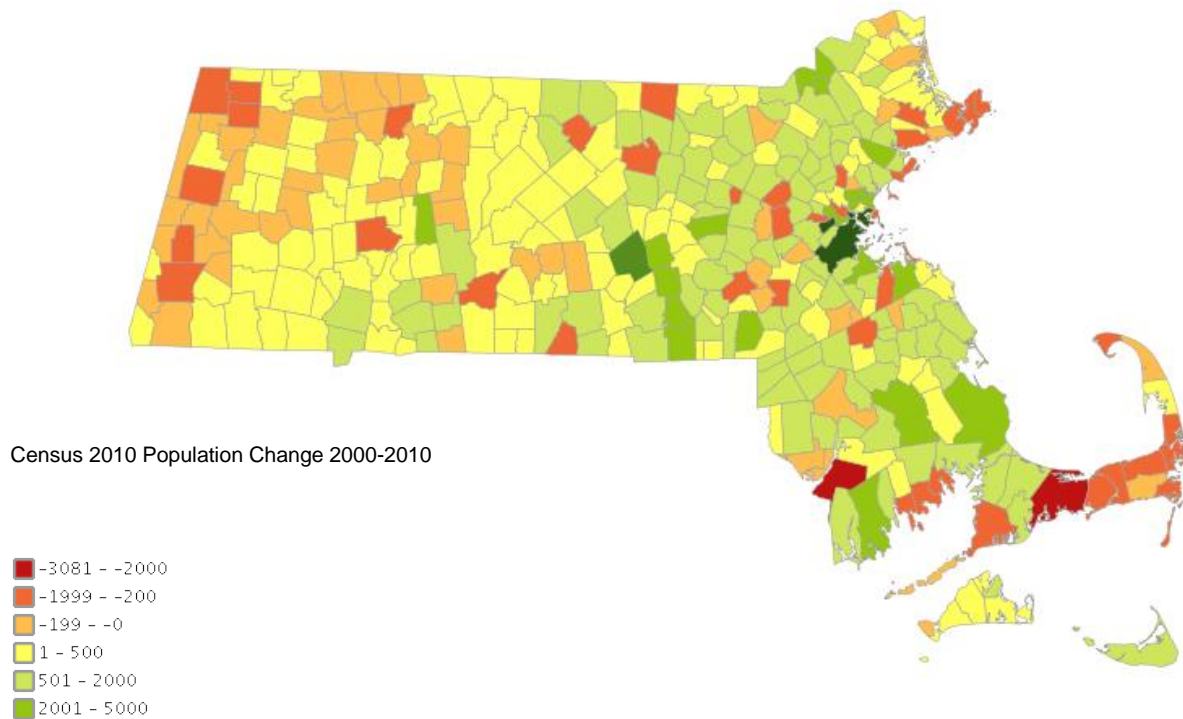
One way of gauging how population trends in the Commonwealth compare with those in other parts of the country and the nation as a whole is by converting the actual population change in each of the various components (births, deaths, etc.) into a rate of change (calculated per 1,000 population). The UMass Donahue Institute provides the following summary of the rates of change of the various population components, noting that the most recent trends represent a continuation of the component trends of the last decade:

[The data] show that births are occurring at a lower rate (10.9) in Massachusetts than in the United States as a whole (12.6) as well as all of its regions averages. Deaths in Massachusetts are occurring at a lower rate (8.1) than other regions of the U.S. except the West (6.8), and just slightly above the overall U.S. rate (8.0). Combined, these vital events lead to a natural increase rate (2.8) that is below that of the U.S. as a whole (4.6) and all of its regions. Within the migration component, we see that the Northeast and Midwest regions have the highest rates of domestic out-migration (-4.0 and -2.8) while the Southern and Western regions have positive domestic migration (3.0 and 0.7). Massachusetts' outmigration rate of -1.5 is less than that of the Northwest and Northeast regional averages (-4.0 and -2.8), but still indicates a domestic outmigration to Southern and Western states. On the other hand, the international migration rate for Massachusetts at 4.6 is higher than the U.S. as a whole (2.8) as well as all of its distinct regions. These rates continue to a large degree the component trends of the last decade.

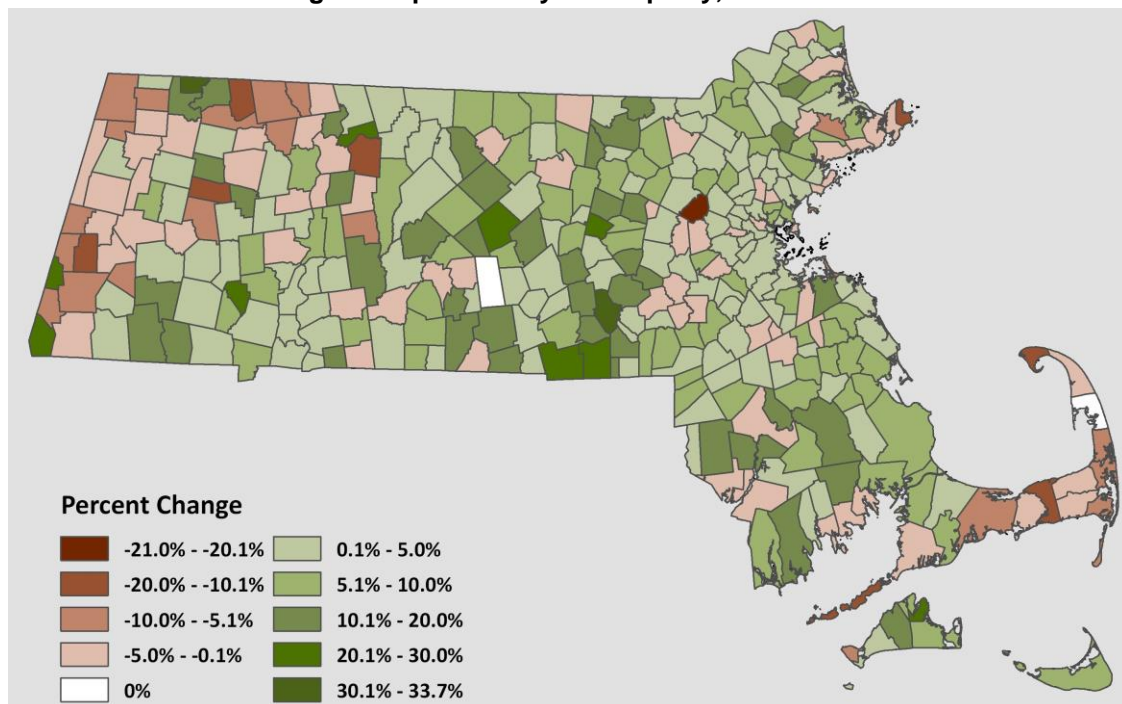
* This increase is broken down as follows: from April 1, 2010 to July 1, 2011 the Massachusetts population increased by 39,907; from July 1, 2011 to July 1, 2012 it increased by 58,608.

Source: UMass Donahue Institute, based on U.S. Census Bureau Estimates of the Components of Resident Population Change for the United States, Regions, States, and Puerto Rico: July 1, 2011 to July 1, 2012 (NST-EST2012-05) (December 20, 2012)

Map 2.1: Absolute Change in Population by Municipality, 2000-2010



Map 2.2: Percent Change in Population by Municipality, 2000-2010



Source: UMass Donahue Institute Population Estimates Program, based on U.S. Census Bureau 2010 Redistricting Data and 2000 Decennial Census

Growth slowed across the board between 2000 and 2010 compared to the decade earlier, and several areas that experienced the highest rates of growth in the 1990s saw particularly large declines during the last decade. Cape Cod saw its population drop by nearly 3 percent between 2000 and 2010, after having grown by more than 19 percent during the prior decade. Growth in the Northeast's Merrimack Valley and Greater Boston's 495 region was also derailed in the 2000s. Showing sustained growth was Boston's Inner Core and the Central region. While the populous Greater Boston region grows at a slower rate than other regions, it accounts for the largest share of population growth – 43 percent of the post-2000 population gain and 37 percent since 1990.

Table 2.2: Population Shifts by Region, 1990 – 2000 - 2010

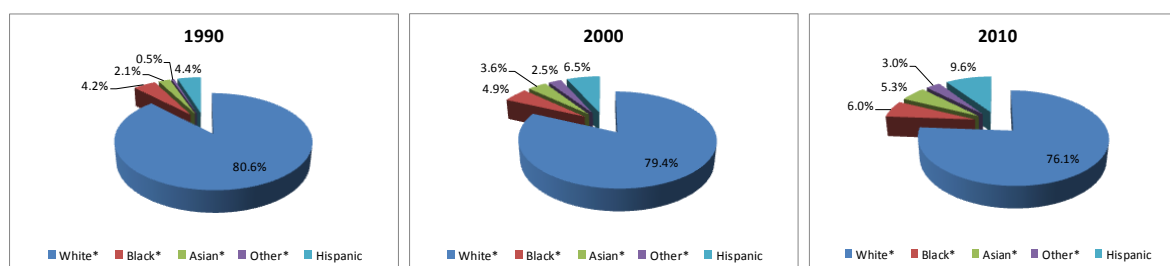
Sub-region	2010 Population	Pop. Change 1990-2000		Pop. Change 2000-2010		Pop. Change 1990-2010	
		#	%	#	%	#	%
MASSACHUSETTS	6,547,629	332,672	5.5%	198,532	3.1%	531,204	8.8%
Berkshire	131,219	-4,399	-3.2%	-3,734	-2.8%	-8,133	-5.8%
Central	73,839	-2,707	-3.5%	-1,090	-1.5%	-3,797	-4.9%
North	36,556	-2,625	-6.4%	-2,073	-5.4%	-4,698	-11.4%
South	20,824	933	4.6%	-571	-2.7%	362	1.8%
Boston	2,679,494	112,318	4.5%	84,809	3.3%	197,127	7.9%
Inner Core	1,627,441	48,483	3.2%	52,579	3.3%	101,062	6.6%
128	632,152	20,212	3.4%	13,968	2.3%	34,180	5.7%
495-West	419,901	43,623	12.2%	18,262	4.5%	61,885	17.3%
Cape & Islands	242,595	42,481	20.8%	-4,142	-1.7%	38,339	18.8%
Cape Cod	215,888	35,625	19.1%	-6,342	-2.9%	29,283	15.7%
Martha's Vineyard	16,535	3,348	28.8%	1,548	10.3%	4,896	42.1%
Nantucket	10,172	3,508	58.3%	652	6.8%	4,160	69.2%
Central	793,173	40,184	5.7%	46,688	6.3%	86,872	12.3%
Blackstone Valley	93,425	9,940	13.7%	10,933	13.3%	20,873	28.8%
Metro Worcester	451,596	25,286	6.3%	26,454	6.2%	51,740	12.9%
North Central	248,152	4,958	2.1%	9,301	3.9%	14,259	6.1%
Northeast	957,870	68,721	8.0%	27,490	3.0%	96,211	11.2%
Merrimack Valley	333,748	30,276	10.5%	15,192	4.8%	45,468	15.8%
Middlesex	360,461	24,550	7.5%	8,786	2.5%	33,336	10.2%
North Shore	263,661	13,895	5.6%	3,512	1.3%	17,407	7.1%
Pioneer Valley	692,942	7,044	1.0%	12,928	1.9%	19,972	3.0%
Franklin	71,372	1,443	2.1%	-163	-0.2%	1,280	1.8%
Hampden	463,490	-82	0.0%	7,262	1.6%	7,180	1.6%
Hampshire	158,080	5,683	3.9%	5,829	3.8%	11,512	7.9%
Southeast	1,050,336	66,323	7.0%	34,493	3.4%	100,816	10.6%
Tri-City	477,758	42,200	10.1%	18,024	3.9%	60,224	14.4%
South Shore	207,679	20,413	11.6%	10,605	5.4%	31,018	17.6%
Southcoast	364,899	3,710	1.0%	5,864	1.6%	9,574	2.7%

Source: Decennial Census, 1990-2000-2010

Racial and Ethnic Characteristics

Even though its population is becoming more diverse, Massachusetts ranks in the middle of the pack among states, both in the percent of population that is minority and in the percentage growth in the minority population between 2000 and 2010.⁴³ It remains largely a non-Hispanic White state even though its largest city, Boston, and seven other municipalities are “majority minority,” where non-Hispanic Whites represent less than 50 percent of the population. At the time of the 2010 Census, 76.1 percent of Massachusetts’ 6,547,629 residents identified themselves as non-Hispanic White; 9.6 percent were Hispanic (all races); 6.0 percent, non-Hispanic Black; 5.3 percent, non-Hispanic Asian (including Pacific Islander); and 3.0 percent, all other races and/or combinations. **Figure 2.1** illustrates the change in population distribution by race/ethnicity since 1990.

Figure 2-1: Massachusetts Racial and Ethnic Profile, 1990 – 2000 - 2010



Source: Decennial Census, 1990-2000-2010

The most significant population shift over the past 20 years has been the increase in the number of Asians and Hispanics. Massachusetts’ Asian population has grown by nearly 148 percent and its Hispanic population by more 118 percent since 1990. Over the same period, the Black population grew by almost 43 percent, while the White population declined by nearly 6 percent.

The following three tables detail the racial/ethnic make-up of Massachusetts households and show how that has changed since 1990; they also document the wide variation within and among regions in where people of color live. **Table 2.3** summarizes the distribution of Massachusetts’ major racial/ethnic groups by region and subregion. It shows, for example, that the Boston region is home to 38 percent of the state’s White households but nearly 64 percent of Black and 70 percent of Asian households. The Pioneer Valley, representing just over 10 percent of the state’s households, is home to nearly 18 percent of its Hispanic households. **Table 2.4** details the 2010 racial and ethnic breakdown of Massachusetts households by region and subregion and summarizes the changes that occurred between 1990 and 2000 and 2000 and 2010 by race and ethnicity. Due to shrinking household size and the fact that more people are living alone, even regions that lost population during this period gained households. The Berkshires, for example, had a 3.3 percent increase in the number of households between 1990 and 2010 even though

⁴³ The U.S. Census uses the term “minority” to refer to people who reported their ethnicity and race as something other than non-Hispanic White alone in the decennial census. We use the term “populations of color” interchangeably in this analysis with the term “minority.” We also use the terms Latino and Hispanic interchangeably.

it posted a 5.8 percent decline in population. Similarly, the state's White (non-Hispanic) population declined by 5.6 percent, but the number of households still increased (by 1.5%).

The final table in this series, **Table 2.5**, illustrates the wide the racial/ethnic disparities that exist within each region. This table identifies the city or town with the highest and lowest concentration of Black, Asian and Latino households and those with the most and the fewest Black, Asian and Latino households.

Table 2.3: Distribution of Massachusetts' Major Racial/Ethnic Groups by Region and Subregion

Region	Total	White*	Black*	Asian*	Hispanic	Other
MASSACHUSETTS	2,547,075	2,060,449	138,335	108,463	183,763	56,065
Berkshire	2.2%	2.6%	0.8%	0.4%	0.7%	1.2%
Central	1.3%	1.4%	0.6%	0.2%	0.4%	0.8%
North	0.6%	0.7%	0.1%	0.1%	0.1%	0.3%
South	0.4%	0.4%	0.1%	0.0%	0.1%	0.1%
Boston	41.5%	38.2%	63.6%	69.6%	43.4%	47.1%
Inner Core	25.9%	21.4%	55.0%	51.2%	37.3%	33.0%
128	9.5%	10.2%	6.5%	12.0%	2.8%	5.8%
495/MetroWest	6.1%	6.6%	2.1%	6.4%	3.3%	8.3%
Cape and Islands	4.2%	4.9%	1.3%	0.6%	0.9%	5.2%
Cape Cod	3.8%	4.4%	1.0%	0.6%	0.7%	4.4%
Martha's Vineyard	0.3%	0.3%	0.2%	0.0%	0.1%	0.7%
Nantucket	0.2%	0.2%	0.2%	0.0%	0.1%	0.1%
Central	11.8%	12.4%	6.9%	8.4%	11.7%	7.9%
Blackstone Valley	1.4%	1.6%	0.2%	0.6%	0.2%	0.6%
Metro Worcester	6.7%	6.8%	5.3%	6.5%	8.1%	5.1%
North Central	3.7%	4.1%	1.4%	1.3%	3.4%	2.3%
Northeast	14.2%	14.7%	4.5%	12.5%	18.3%	7.9%
Merrimack Valley	4.9%	4.6%	1.3%	2.9%	12.2%	2.1%
Middlesex	5.1%	5.3%	2.2%	8.4%	3.8%	3.4%
North Shore	4.2%	4.8%	0.9%	1.3%	2.2%	2.4%
Pioneer Valley	10.6%	10.4%	10.4%	4.0%	17.7%	6.5%
Franklin	1.2%	1.4%	0.2%	0.2%	0.3%	0.9%
Hampden	7.1%	6.4%	9.6%	2.3%	16.4%	4.1%
Hampshire	2.3%	2.6%	0.7%	1.5%	1.0%	1.5%
Southeast	15.6%	16.9%	12.5%	4.4%	7.4%	24.1%
South Shore	3.0%	3.6%	0.5%	0.5%	0.3%	2.0%
Southcoast	5.7%	6.2%	2.7%	1.3%	3.9%	10.4%
Tri-Cities	6.8%	7.1%	9.3%	2.6%	3.1%	11.6%

* Non-Hispanic; based on population

Source: 2010 Decennial Census

Table 2.4: Massachusetts Households by Race/Ethnicity by Region, 2010, and Change 1990-2010

Region	2010						% Change 1990-2000						% Change 2000-2010						% Change 1990-2010						
	Total	White*	Black*	Asian*	Hispanic	Total	White*	Black*	Asian*	Hispanic	Total	White*	Black*	Asian*	Hispanic	Total	White*	Black*	Asian*	Hispanic	Total	White*	Black*	Asian*	Hispanic
MASSACHUSETTS	2,547,075	2,060,449	138,335	108,463	183,763	8.7%	5.3%	24.6%	94.5%	54.7%	4.2%	-3.6%	21.7%	49.3%	52.6%	13.3%	1.5%	51.6%	190.4%	136.0%	13.3%	1.5%	51.6%	190.4%	136.0%
Berkshire	56,091	52,697	1,095	407	1,199	3.1%	2.8%	-15.9%	77.2%	71.0%	0.2%	-2.9%	50.8%	19.0%	126.2%	3.3%	-0.2%	26.9%	110.9%	286.8%	3.3%	-0.2%	26.9%	110.9%	286.8%
Central	32,041	29,660	870	257	822	2.7%	2.1%	-6.3%	65.5%	112.2%	1.8%	-2.1%	58.2%	4.9%	161.8%	4.5%	0.0%	48.2%	73.6%	485.4%	4.5%	0.0%	48.2%	73.6%	485.4%
North	15,096	14,469	140	97	199	-1.2%	-1.5%	-17.7%	100.0%	27.0%	-4.0%	-5.7%	15.7%	34.7%	56.7%	-5.1%	-7.2%	-4.8%	169.4%	99.0%	-5.1%	-7.2%	-4.8%	169.4%	99.0%
South	8,954	8,568	85	53	178	13.7%	14.4%	-57.4%	177.8%	43.5%	1.6%	-0.5%	54.5%	112.0%	100.0%	15.5%	13.8%	-34.1%	488.9%	187.1%	15.5%	13.8%	-34.1%	488.9%	187.1%
Boston	1,055,941	786,301	87,970	75,529	79,719	7.2%	2.2%	19.0%	97.2%	52.8%	3.6%	-6.5%	15.8%	49.1%	52.1%	11.1%	-4.5%	37.8%	194.0%	132.4%	11.1%	-4.5%	37.8%	194.0%	132.4%
Inner Core	658,982	440,439	76,062	55,510	68,461	5.6%	-1.3%	16.3%	90.4%	54.5%	3.1%	-9.5%	9.8%	41.3%	48.9%	8.8%	-10.6%	27.7%	168.9%	130.0%	8.8%	-10.6%	27.7%	168.9%	130.0%
128	240,826	210,426	8,959	13,043	5,132	7.5%	4.4%	85.2%	121.1%	49.7%	4.0%	-2.9%	97.3%	79.6%	96.0%	11.8%	1.4%	265.4%	297.2%	193.3%	11.8%	1.4%	265.4%	297.2%	193.3%
495/MetroWest	156,133	135,436	2,949	6,976	6,126	14.6%	12.5%	18.1%	132.7%	36.8%	5.4%	-1.9%	38.1%	70.1%	61.4%	20.7%	10.3%	63.1%	295.9%	120.8%	20.7%	10.3%	63.1%	295.9%	120.8%
Cape and Islands	107,352	100,246	1,827	691	1,645	23.2%	22.4%	1.5%	100.0%	5.2%	2.3%	0.1%	39.1%	56.3%	106.9%	26.0%	22.5%	41.3%	212.7%	117.6%	26.0%	22.5%	41.3%	212.7%	117.6%
Cape Cod	95,755	89,985	1,380	621	1,321	22.2%	21.6%	6.2%	82.5%	3.3%	1.0%	-0.8%	25.1%	56.8%	78.0%	23.4%	20.6%	32.8%	186.2%	84.0%	23.4%	20.6%	32.8%	186.2%	84.0%
Martha's Vineyard	7,368	6,575	222	43	114	28.3%	26.5%	-26.4%	250.0%	9.7%	14.7%	11.8%	56.3%	207.1%	235.3%	47.3%	41.4%	15.0%	975.0%	267.7%	47.3%	41.4%	15.0%	975.0%	267.7%
Nantucket	4,229	3,686	225	27	210	42.4%	37.7%	11.5%	#DIV/0!	171.4%	14.3%	5.8%	230.9%	-15.6%	1005.3%	62.8%	45.7%	268.9%	#DIV/0!	2900.0%	62.8%	45.7%	268.9%	#DIV/0!	2900.0%
Central	300,686	256,200	9,495	9,072	21,481	9.0%	6.6%	59.6%	101.1%	69.0%	6.8%	-0.9%	43.8%	66.5%	51.7%	16.4%	5.6%	129.5%	234.8%	156.4%	16.4%	5.6%	129.5%	234.8%	156.4%
Blackstone Valley	34,901	33,208	251	666	442	15.5%	14.6%	44.4%	95.7%	101.7%	15.8%	12.5%	141.3%	193.4%	82.6%	33.7%	28.9%	248.6%	474.1%	268.3%	33.7%	28.9%	248.6%	474.1%	268.3%
Metro Worcester	171,540	139,524	7,305	7,018	14,861	9.5%	5.5%	90.7%	127.9%	81.4%	5.8%	-4.1%	47.6%	68.2%	50.6%	15.8%	1.2%	181.5%	283.3%	173.2%	15.8%	1.2%	181.5%	283.3%	173.2%
North Central	94,245	83,468	1,939	1,388	6,178	6.0%	5.8%	5.4%	37.5%	43.7%	5.7%	0.0%	25.0%	32.3%	52.4%	12.0%	5.8%	31.8%	81.9%	119.1%	12.0%	5.8%	31.8%	81.9%	119.1%
Northeast	361,566	303,661	6,255	13,590	33,623	10.7%	8.0%	92.6%	89.8%	57.3%	5.0%	-2.8%	35.6%	47.2%	49.3%	16.2%	5.0%	161.2%	179.3%	134.8%	16.2%	5.0%	161.2%	179.3%	134.8%
Merrimack Valley	123,577	94,990	1,849	3,112	22,438	12.6%	9.4%	83.8%	123.2%	64.1%	5.4%	-6.3%	4.6%	31.9%	46.7%	18.6%	2.5%	92.2%	194.4%	140.9%	18.6%	2.5%	92.2%	194.4%	140.9%
Middlesex	130,477	109,331	3,095	9,061	7,071	11.2%	8.0%	97.7%	82.2%	41.8%	5.2%	-2.3%	62.2%	52.0%	42.8%	16.9%	5.5%	220.7%	176.8%	102.5%	16.9%	5.5%	220.7%	176.8%	102.5%
North Shore	107,512	99,340	1,311	1,417	4,114	7.9%	6.5%	100.2%	70.7%	50.7%	4.3%	0.4%	39.9%	55.2%	80.8%	12.5%	6.9%	180.1%	164.9%	172.5%	12.5%	6.9%	180.1%	164.9%	172.5%
Pioneer Valley	269,091	214,090	14,454	4,390	32,519	5.3%	2.5%	19.8%	65.3%	60.0%	3.2%	-5.0%	4.5%	38.1%	48.4%	8.7%	-2.6%	25.1%	128.4%	137.5%	8.7%	-2.6%	25.1%	128.4%	137.5%
Franklin	30,462	28,874	252	264	586	6.6%	5.0%	28.4%	133.3%	120.2%	3.4%	1.3%	69.1%	30.0%	58.4%	10.2%	6.3%	117.2%	203.4%	248.8%	10.2%	6.3%	117.2%	203.4%	248.8%
Hampden	179,927	131,737	13,257	2,514	30,096	3.2%	-0.5%	19.4%	101.8%	60.0%	2.6%	-8.8%	2.2%	45.9%	49.1%	5.9%	-9.3%	22.0%	194.4%	138.5%	5.9%	-9.3%	22.0%	194.4%	138.5%
Hampshire	58,702	53,479	945	1,612	1,837	11.9%	10.4%	25.3%	27.6%	49.2%	4.8%	2.0%	31.4%	28.8%	36.1%	17.3%	12.6%	64.3%	103.0%	138.5%	17.3%	12.6%	64.3%	103.0%	138.5%
Southeast	396,348	347,254	17,239	4,784	13,577	10.9%	8.1%	47.8%	90.2%	32.7%	5.1%	0.3%	62.0%	43.8%	67.8%	16.5%	8.4%	139.3%	173.5%	122.6%	16.5%	8.4%	139.3%	173.5%	122.6%
South Shore	76,257	73,290	700	492	628	16.0%	15.7%	17.5%	16.1%	0.3%	9.2%	7.5%	28.9%	90.0%	67.9%	26.6%	24.4%	51.5%	120.6%	68.4%	26.6%	24.4%	51.5%	120.6%	68.4%
Southcoast	145,624	127,461	3,693	1,427	7,209	5.7%	2.6%	55.7%	155.4%	38.9%	2.9%	-1.2%	26.4%	19.1%	85.2%	8.7%	1.4%	96.8%	204.3%	157.3%	8.7%	1.4%	96.8%	204.3%	157.3%
Tri-Cities	174,467	146,503	12,846	2,865	5,740	13.5%	9.8%	47.6%	76.9%	30.8%	5.3%	-1.6%	79.0%	53.2%	50.0%	19.6%	8.0%	164.1%	171.1%	96.2%	19.6%	8.0%	164.1%	171.1%	96.2%

* non-Hispanic

Source: 2010 Decennial Census

Table 2.5: Municipalities with the Highest and Lowest Share of Households in Major Race/Ethnicity Categories, by Region																	
Household Distribution by Race/Ethnicity					Percent of Households						Number of Households						
Region	White*	Black*	Asian*	Hispanic	Other	Black		Asian		Hispanic		Black		Asian		Hispanic	
						Lowest	Highest	Lowest	Highest	Lowest	Highest	Lowest	Highest	Lowest	Highest	Lowest	Highest
Berkshire	93.9%	2.0%	0.7%	2.1%	1.2%	***	Pittsfield	4.1%	***	Williamstown	2.0%	***	Great Barrington	***	Pittsfield	***	Pittsfield
Boston	74.5%	8.3%	7.2%	7.5%	2.5%		Carlisle	Randolph	Hull	Quincy	Wrentham	Chelsea	Carlisle	Nahant	Boston	Sherborn	Boston
Cape and Islands	93.4%	1.7%	0.6%	1.5%	2.7%		Sandwich	Oak Bluffs	Truro	Falmouth	Wellfleet	Nantucket	***	***	20,585	16	34,510
Central	85.2%	3.2%	3.0%	7.1%	1.5%		Royalston	Worcester	***	Westborough	0.1%	0.6%	***	***	154	***	386
							0.0%	9.2%	15.1%	0.4%	20.3%	Southbridge	***	Worcester	3,169	Petersham	Worcester
Northeast	84.0%	1.7%	3.8%	9.3%	1.2%		Manchester	Lowell	Rockport	Lowell	Rowley	Lawrence	***	Newbury	Lowell	Rowley	Lawrence
Pioneer Valley	79.6%	5.4%	1.6%	12.1%	1.4%		***	Springfield	0.3%	13.6%	0.4%	65.3%	***	***	5,229	9	16,455
Southeast								19.7%	10.0%		40.4%		***	***	999		18,569
	87.6%	4.3%	1.2%	3.4%	3.4%		Somerset	Brockton	Acushnet	Attleboro	Hanson	New Bedford	Plympton	Plympton	Fall River	Plympton	New Bedford
MA	80.9%	5.4%	4.3%	7.2%	2.2%		2.0%	26.7%	0.2%	3.2%	0.5%	12.0%	7	2	670	6	4,636

* non-Hispanic
 *** more than one town had no households in category
 201 Decennial Census

Immigration is Increasing Diversity Among Racial and Ethnic Populations

The increase in the state's racial and ethnic populations over the past two decades has been fueled by immigration. Since 1990, more than 608,000 foreign born residents have settled in Massachusetts, and the Commonwealth's diverse immigrant communities are changing the social, cultural and economic landscape in many ways. **Figure 2.2** illustrates the racial and ethnic identity of the foreign born population that has settled in Massachusetts since 1990 while **Figure 2.3** documents each of the major racial/ethnic groups' share of household growth since 1990.

Figure 2.2: Race/Ethnicity of Immigrants Settling in MA Since 1990

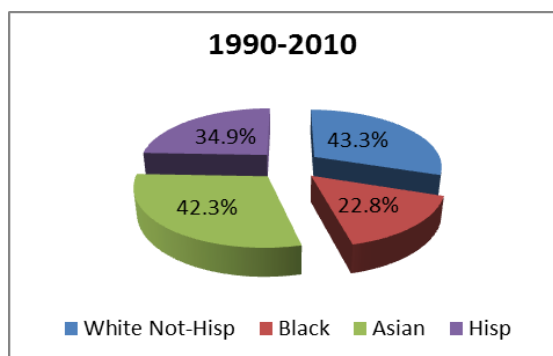
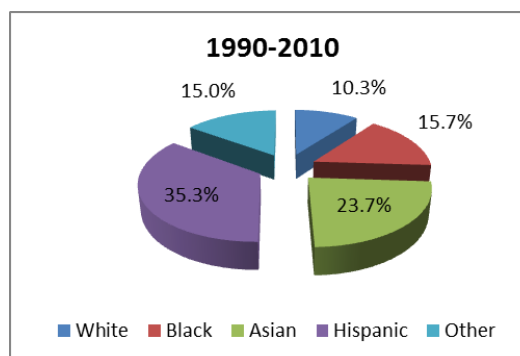


Figure 2.3: Racial/Ethnic Group's Contribution to MA Household Growth Since 1990



Source: Figure 2.2, 2011 1-Year American Community Survey; Figure 2.3, 2010 Decennial Census

More than 976,000 immigrants now call Massachusetts home, 62 percent of them having arrived since 1990. Foreign born residents account for 15 percent of the state's population. In many cities and regions, the immigrant share is much greater. Chelsea has the highest concentration of foreign born residents – nearly 44 percent – but there are 23 Massachusetts cities and towns where immigrants represent more than 20 percent of the population. (See **Table 2.6.**) Boston has the fifth highest proportion of foreign-born residents (27%) among the 25 largest cities in the United States, and the city now is home to immigrants from more than 100 countries.

Forty-one percent of the more than 608,000 foreign-born residents who have settled in Massachusetts since 1990 have come from Latin America (including the Caribbean), almost 32 percent have come from Asia, nearly 16 percent arrived from Europe, and 10 percent from Africa. The regions of origin have shifted over the past twenty years as shown in **Table 2.7.** Without this influx of foreign born residents, Massachusetts' population would have lost population (nearly 43,000 residents) over the past decade.

Table 2.6: Communities Where More Than 20 Percent of the Population is Foreign Born

Community	2010 Population*	Total Foreign born	% Foreign born	% Foreign born from Asia	% Foreign born from Latin America^	% Foreign born from Africa	% Foreign born from Europe^^
Chelsea	35,177	15,386	43.7%	6.9%	79.9%	8.2%	4.5%
Malden	59,450	23,235	39.1%	43.7%	35.9%	10.0%	9.1%
Lawrence	76,377	27,380	35.8%	7.7%	87.5%	1.1%	3.1%
Everett	41,667	14,794	35.5%	6.9%	72.7%	7.5%	12.4%
Randolph	32,112	10,174	31.7%	27.7%	49.2%	16.1%	6.1%
Revere	51,755	15,496	29.9%	13.5%	57.8%	12.3%	15.7%
Lynn	90,329	26,598	29.4%	15.7%	61.5%	8.6%	12.6%
Waltham	60,632	16,597	27.4%	40.0%	34.8%	6.0%	14.6%
Cambridge	105,162	28,612	27.2%	38.4%	22.5%	10.0%	24.8%
Quincy	92,271	24,983	27.1%	68.0%	9.8%	3.7%	17.0%
Boston	617,594	165,382	26.8%	25.5%	48.4%	10.3%	14.2%
Framingham	68,318	17,737	26.0%	24.1%	59.7%	3.9%	10.6%
Somerville	75,754	19,624	25.9%	30.4%	39.2%	3.1%	23.4%
Watertown	31,915	8,225	25.8%	47.3%	17.7%	4.4%	26.5%
Brookline	58,732	15,068	25.7%	50.2%	13.7%	1.9%	29.5%
Brockton	93,810	22,803	24.3%	7.5%	47.3%	36.9%	7.0%
Lowell	106,519	25,831	24.3%	52.1%	25.2%	10.8%	10.8%
Lexington	31,394	7,256	23.1%	62.8%	4.5%	1.9%	26.1%
Medford	56,173	11,828	21.1%	27.1%	37.5%	5.0%	27.5%
Acton	21,924	4,579	20.9%	62.4%	9.6%	1.7%	22.1%
Belmont	24,729	5,097	20.6%	53.7%	12.6%	4.0%	25.4%
Worcester	181,045	37,158	20.5%	25.7%	35.0%	19.0%	18.8%
Newton	85,146	17,230	20.2%	44.9%	10.7%	3.1%	37.0%

^ Includes Central and South America, Caribbean and Mexico

^^ Includes former Soviet Republics

Source: Population, 2010 Decennial Census; Foreign born, 2011 5-Year American Community Survey, Table B05006. Foreign born shares are estimates derived by applying the 2007-2011 estimate of foreign born and region of origin to the 2010 Decennial Census population count.

Table 2.7: Region of Birth of Massachusetts' Foreign Born Population

Region of Birth	Entered 2000 or later	Entered 1990 to 1999	Entered before 1990
Europe	13.2%	19.8%	37.0%
Asia	32.4%	30.3%	24.7%
Africa	10.7%	8.5%	5.3%
Oceania	0.5%	0.3%	0.2%
Latin America	41.6%	39.2%	27.6%
Northern America	1.6%	2.0%	5.1%

Source: 2011 3-Year American Community Survey, Table S0502.

The leading countries of origin of Massachusetts' foreign-born population are: China (8.2%), Brazil (7.0%), Dominican Republic (6.9%), Portugal (6.0%), India (5.2%), Haiti (4.6%), Vietnam (3.7%), Canada (3.0%), El Salvador (3.0%), and Guatemala (2.9%). There is significant clustering among recent immigrant groups, but over time this trend diminishes.

Linguistic Isolation and Other Challenges

The diversity of Massachusetts' immigrant population is reflected in their age, educational attainment, the languages they speak, and their fluency with English. There are now more than 591,000 households whose members speak a language other than English. Just under one quarter of these are linguistically isolated, that is, they have no one age 14 or over who "speaks English only or speaks English very well." Spanish speakers represent the largest number of linguistically isolated households, but those speaking an Asian language report a higher incidence of linguistic isolation. **Table 2.8** shows the number of linguistically isolated households by region by language (or language group). It also indicates what share of households speaking a given language, or language group, is linguistically isolated.

Table 2.8: Challenge of Linguistic Isolation in Massachusetts Regions and Statewide

Region	Total Households	Linguistically Isolated Households									
		All languages*		Spanish^		Asian and Pacific Island languages^		Indo-European languages^		Other languages^	
		#*	%*	#^	%^	#^	%^	#^	%^	#^	%^
Berkshire	55,793	649	1.2%	254	14.8%	49	14.6%	337	11.9%	9	3.6%
Boston	1,044,426	75,843	7.3%	24,968	28.8%	19,485	32.2%	28,189	21.1%	3,201	17.3%
Cape & Islands	106,088	1,578	1.5%	187	9.1%	199	27.4%	1,158	15.8%	34	10.5%
Central	296,804	15,827	5.3%	7,543	33.5%	2,957	39.2%	4,178	17.6%	1,149	24.5%
Northeast	359,951	20,360	5.7%	12,622	33.6%	2,902	24.8%	4,293	14.2%	543	16.2%
Pioneer Valley	267,237	14,183	5.3%	8,432	26.8%	1,395	32.6%	4,139	21.3%	217	13.0%
Southeast	392,110	16,524	4.2%	3,617	22.5%	922	22.2%	11,681	20.8%	304	14.2%
MASSACHUSETTS	2,522,409	144,964	5.7%	57,623	29.1%	27,909	31.3%	53,975	19.8%	5,457	17.7%

* This is the number and percent of all households that are linguistically isolated.

^ These are the numbers of linguistically isolated households by language spoken (or language group) and the percent of each language (group) that is linguistically isolated.

Source: 2011 5-Year American Community Survey, Table B16002.

The challenges posed by limited English proficiency vary widely by community. **Table 2.9** identifies those Massachusetts cities and towns that have at least 1,000 linguistically isolated households. While Boston has the most linguistically isolated households in every major language group, limited English proficiency affects a greater proportion of households in many other communities. Nearly one third of all households in Lawrence, for example, and 28 percent of those in Chelsea, are linguistically isolated.

Table 2.9: Massachusetts Communities with More than 1,000 Linguistically Isolated Households

Community	Total Households	Linguistically Isolated Households									
		All languages		Spanish		Asian and Pacific Island languages		Indo-European languages		Other languages	
		#	%	#	%	#	%	#	%	#	%
Boston	247,621	28,821	11.6%	12,407	34.5%	7,423	43.5%	7,991	25.8%	1,000	19.5%
Worcester	70,248	10,205	14.5%	5,147	44.6%	1,755	58.3%	2,355	30.4%	948	32.5%
Lawrence	27,048	8,687	32.1%	8,114	44.9%	369	48.5%	147	13.3%	57	23.5%
Springfield	56,211	6,475	11.5%	5,054	29.7%	555	47.6%	771	23.4%	95	14.0%
New Bedford	38,869	4,795	12.3%	1,599	37.5%	47	15.9%	3,109	28.3%	40	43.0%
Lowell	39,399	4,611	11.7%	1,756	30.5%	1,265	27.3%	1,377	27.2%	213	20.6%
Lynn	34,018	4,527	13.3%	2,896	34.8%	422	29.2%	1,084	31.2%	125	18.0%
Fall River	38,245	3,808	10.0%	665	31.0%	146	25.0%	2,855	25.2%	142	49.5%
Malden	23,422	3,612	15.4%	305	18.6%	1,710	51.2%	1,366	27.7%	231	25.5%
Chelsea	12,035	3,362	27.9%	2,756	50.1%	130	34.1%	370	33.0%	106	42.9%
Quincy	39,965	3,080	7.7%	86	7.6%	2,369	38.8%	527	14.2%	98	17.3%
Framingham	26,167	3,026	11.6%	891	29.7%	288	23.3%	1,804	38.7%	43	8.7%
Everett	15,681	2,905	18.5%	882	41.4%	136	44.3%	1,777	44.0%	110	36.7%
Revere	19,425	2,835	14.6%	1,400	42.9%	334	47.8%	762	27.0%	339	48.2%
Brockton	33,238	2,751	8.3%	661	21.5%	134	26.7%	1,886	24.0%	70	20.3%
Cambridge	45,386	2,583	5.7%	259	8.6%	824	22.1%	1,163	16.1%	337	19.4%
Holyoke	16,012	2,242	14.0%	2,034	32.4%	10	15.6%	198	21.6%	0	0.0%
Somerville	31,476	2,062	6.6%	513	20.0%	389	23.1%	1,115	20.1%	45	9.5%
Chicopee	23,136	1,803	7.8%	802	29.6%	17	6.3%	930	36.1%	54	35.3%
Waltham	23,520	1,785	7.6%	620	28.6%	483	31.1%	589	17.6%	93	18.9%
Medford	22,461	1,626	7.2%	210	24.5%	297	28.2%	1,046	25.9%	73	17.8%
Newton	30,735	1,556	5.1%	105	9.4%	478	21.0%	907	18.7%	66	10.0%
Brookline	24,891	1,454	5.8%	83	5.8%	782	26.0%	559	17.3%	30	4.5%
Salem	17,690	1,129	6.4%	677	32.0%	127	52.0%	325	16.9%	0	0.0%
Peabody	20,890	1,100	5.3%	253	26.5%	56	23.3%	759	23.0%	32	40.5%
Marlborough	15,856	1,004	6.3%	309	32.4%	88	15.5%	607	24.3%	0	0.0%
Taunton	21,799	1,004	4.6%	187	17.5%	52	39.1%	765	21.1%	0	0.0%
MASSACHUSETTS	2,522,409	144,964	5.7%	57,623	29.1%	27,909	31.3%	53,975	19.8%	5,457	17.7%

Source: 2011 5-Year American Community Survey, Table B16002.

Foreign born households, especially those that arrived recently, are more likely than native born households to face economic challenges in addition to linguistic ones. This is a long-standing pattern, not one uniquely associated with the most recent newcomers. Historically, immigrants have faced challenges in the years immediately following their resettlement in a new country. Subsequent generations typically have fared much better.⁴⁴ **Table 2.10** identifies some of these differences.

⁴⁴ Immigrants arriving in Massachusetts since 2000 have been more highly educated than earlier arrivals. The 2007-2011 American Community Survey reports that nearly 80 percent of those who arrived after 2000 had a high school diploma, some college education or a college degree, compared to 68 percent of those who arrived pre-1980. Forty-two percent of immigrants who arrived after 2000 had a bachelor's degree or higher, compared to 26 percent among those who arrived before 1980.

Table 2.10: Selected Characteristics of Native Born and Foreign Born Population

	Native	Foreign born
RACE AND HISPANIC OR LATINO ORIGIN		
White Not Hispanic	82.8%	35.9%
Black*	5.5%	14.7%
Asian*	2.1%	25.1%
Hispanic (any race)	7.9%	21.0%
Other races and/or combinations	5.6%	15.2%
HOUSEHOLD TYPE		
In married-couple family	57.5%	58.1%
In other households	38.7%	39.4%
Average household size	2.43	2.90
Average family size	3.07	3.41
EDUCATIONAL ATTAINMENT (Pop 25 & over)		
Less than high school graduate	7.8%	23.9%
High school graduate (includes equivalency)	26.4%	23.6%
Some college or associate's degree	25.8%	17.0%
Bachelor's degree	23.4%	17.6%
Graduate or professional degree	16.6%	17.8%
LANGUAGE SPOKEN AT HOME, ABILITY TO SPEAK ENGLISH (Pop 5 yrs & over)		
English only	89.1%	18.3%
Language other than English	10.9%	81.7%
Speak English less than "very well"	2.2%	44.5%
Linguistically isolated households	1.4%	27.0%
EMPLOYMENT STATUS (Pop 16 & over)		
% in labor force	67.4%	68.8%
% employed	61.0%	62.5%
% unemployed	6.2%	6.3%
INCOME^A		
Distribution of earnings for full-time, year-round workers:		
Under \$15,000	2.8%	5.0%
\$15,000 to \$34,999	19.6%	33.8%
\$35,000 to \$49,999	20.1%	18.5%
\$50,000 to \$74,999	25.9%	18.3%
\$75,000 or more	31.5%	24.4%
Median earnings (dollars) for full-time, year-round workers:		
Male	61,882	46,492
Female	47,573	38,339
Median Household income (dollars)	65,470	52,309
Average number of workers per household	1.22	1.37
POVERTY STATUS		
Below 100 percent of the poverty level	10.9%	15.3%
100 to 199 percent of the poverty level	12.8%	18.9%
At or above 200 percent of the poverty level	76.2%	65.9%
FAMILY POVERTY RATES		
All families	7.1%	13.1%
With related children under 18 years	12.0%	17.1%
Married-couple family	2.2%	8.1%
With related children under 18 years	2.8%	9.2%
Female householder, no husband present, family	25.0%	27.3%
With related children under 18 years	34.9%	35.4%
HOUSING CHARACTERISTICS		
Owner-occupied housing units	65.3%	46.7%
Average household size of owner-occupied unit	2.62	3.17
Renter-occupied housing units	34.7%	53.3%
Average household size of renter-occupied unit	2.06	2.66
1.01 or more occupants per room (overcrowded)	1.0%	5.7%
No vehicles available	11.5%	18.5%
Owner households w monthly housing costs 30% or more	33.0%	42.3%
Renter households w monthly housing costs 30% or more	48.6%	49.9%

Source: 2011 1-Year American Community Survey

Family Status and Living Arrangements

The emergent populations of color have already altered the state's household composition and living arrangements, and their preferences, needs and economic resources will shape residential landscape going forward. Large families (5 or more members) are more prevalent among Black, Asian and Latino households than among Whites, for renters as well as owners. (**Table 2.11** shows the share, by region and race/ethnicity of households with 5 or more members.) Extended families are also more prominent among minority group households, especially when they are raising children or caring for elders. Subfamilies, too, are more common.

In 2010, just 2.7 percent of Massachusetts' non-Hispanic White families included three or more generations compared to 6.8 percent of Black, 6.9 percent of Asian, and 7.5 percent of Latino families.

Table 2.11: Share of Households with Five or More Members by Race/Ethnicity

Region	Percent of Renter Households with 5 or more members					Percent of Owner Households with 5 or more members				
	Total	Black Households	Asian Households	Hispanic Households	White Not Hispanic	Total	Black Households	Asian Households	Hispanic Households	White Not Hispanic
Berkshire	4.7%	8.6%	6.4%	14.8%	4.0%	6.3%	13.5%	18.4%	16.1%	6.1%
Boston	6.4%	10.2%	7.2%	18.0%	3.0%	10.6%	20.0%	17.3%	26.7%	8.9%
Cape & Islands	5.9%	10.5%	16.4%	22.4%	4.5%	5.9%	13.8%	17.4%	17.9%	5.5%
Central	7.4%	12.4%	11.2%	16.3%	4.8%	10.5%	23.8%	21.4%	25.2%	9.5%
Northeast	8.2%	12.9%	19.5%	18.5%	4.1%	11.4%	24.4%	25.3%	28.9%	10.0%
Pioneer Valley	8.2%	11.1%	11.1%	16.1%	4.5%	8.7%	15.2%	24.1%	23.3%	7.5%
Southeast	6.8%	11.8%	14.4%	16.8%	4.8%	11.6%	23.8%	23.0%	24.0%	10.7%
MASSACHUSETTS	6.9%	10.8%	9.2%	17.5%	3.8%	10.4%	20.4%	19.5%	25.9%	9.1%

Source: 2010 Decennial Census, SF1

Table 2.12 documents a number of other significant changes in family status that are occurring. Between 2000 and 2010, the number of non-Hispanic White families with children declined, married couple families by 11.8 percent and families headed by single mothers by 4.3 percent. In sharp contrast, there was a 26.6 percent and 29.0 percent increase in those categories among families of color. The most striking difference in child-rearing households was among married couple families with very young children (under 6 years). The number of non-Hispanic White families in this category dropped by 20.3 percent, while the number of families of color rose by 34.1 percent. Households of color – both married couples and female householders with no children present – jumped by 45.6 and 67.4 percent between 2000 and 2010.

With the aging of the state's White population, family households with children under 18 will increasingly be non-White.

Table 2.12: Change in Family Status, 2000-2010: Non-Hispanic Whites and Families of Color

Race/Ethnicity	Total	Married-couple family	Married-couple family w own children <18	Married-couple family w own children <6 only	Married-couple family w no children <18	Female HHer, no husband present w own children <18	Female HHer, no husband present w own children <6 only	Female HHer, no husband present w no children <18
Non-Hispanic White	-4.6%	-6.1%	-14.4%	-22.4%	0.4%	-6.8%	-3.5%	3.3%
All Minorities	35.9%	33.0%	25.4%	30.3%	44.6%	27.1%	24.5%	60.1%
<i>Minority Share 2000</i>	<i>15.6%</i>	<i>11.5%</i>	<i>15.2%</i>	<i>15.6%</i>	<i>8.4%</i>	<i>37.7%</i>	<i>42.2%</i>	<i>20.1%</i>
<i>Minority Share 2010</i>	<i>20.9%</i>	<i>15.6%</i>	<i>20.8%</i>	<i>23.7%</i>	<i>11.7%</i>	<i>45.2%</i>	<i>48.5%</i>	<i>28.1%</i>

Source: 2000, 2010 Decennial Census, SF1

Tenure by Presence of Children

Throughout the Commonwealth, the number of households with children declined significantly between 2000 and 2010. There were over 136,000 more childless households in 2010 than there had been a decade earlier, with both owner households and renter households experiencing large drops (**Table 2.13**).

Table 2.13: Change in Family Status by Presence of Children and Tenure, 2000-2010

		Households	With own children under 18 years:	With own children under 6 years only	With own children under 6 years and 6 to 17 years	With own children 6 to 17 years only	With no own children under 18 years
All Households	Total	2,547,075	720,640	167,026	124,341	429,273	1,826,435
	Household type share of total	100.0%	28.3%	6.6%	4.9%	16.9%	71.7%
	# Change, 2000-2010	103,495	-32,700	-18,450	-18,191	3,941	136,352
	% Change, 2000-2010	4.2%	-4.3%	-9.9%	-12.8%	0.9%	120.0%
Owner Households	Total	1,587,158	481,890	96,052	76,402	309,436	1,105,268
	Household type share of total	100.0%	30.4%	6.1%	4.8%	19.5%	69.6%
	# Change, 2000-2010	78,910	-27,996	-19,092	-17,141	8,237	462,459
	% Change, 2000-2010	5.2%	-5.5%	-16.6%	-18.3%	2.7%	71.9%
Renter Households	Total	959,917	238,750	70,974	47,939	119,837	721,167
	Household type share of total	100.0%	24.9%	7.4%	5.0%	12.5%	75.1%
	# Change, 2000-2010	24,585	-4,704	642	-1,050	-4,296	533,893
	% Change, 2000-2010	2.6%	-1.9%	0.9%	-2.1%	-3.5%	285.1%

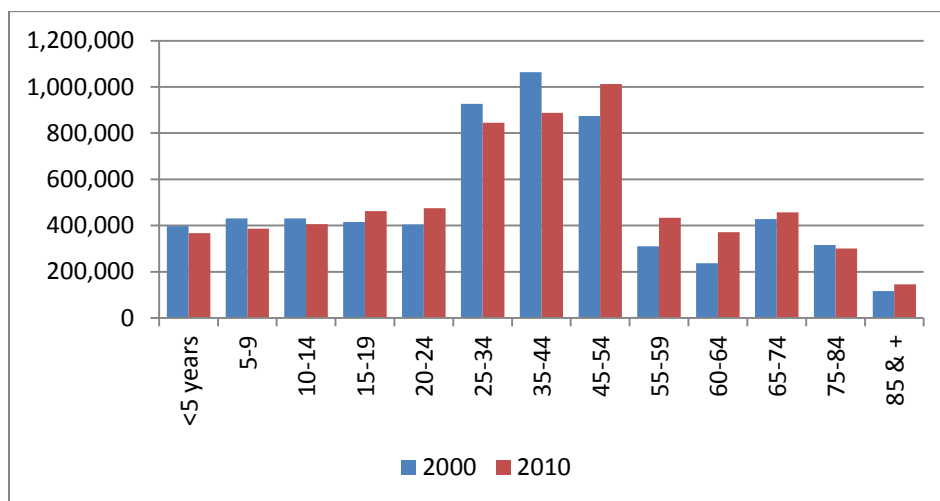
Source: 2000 and 2010 Decennial Censuses

Shifting Age Profile

Changes in the age composition of the population have significant social, economic and public policy implications. The nation is growing older, and so is Massachusetts. Between 2000 and 2010, there was a decrease in the percentage of residents under the age of 45 and an overall increase in the 45-64 age group. As is true in much of the nation, the Commonwealth's shifting age profile reflects the influence of the large post-WWII baby boom generation, born between 1946 and 1964, and their offspring, the echo boomers (Millennials or Generation Y), born between 1981 - 2000. The population gain between 2000 and 2010 was largely attributable to the increase in 45-64 year olds (those born between 1946 and 1964) and 15-24 year olds (born between 1986 and 1995). The drop in the 30-44 age cohort represents the "baby bust" that occurred between 1965 and 1978. Increased longevity of the region's oldest residents

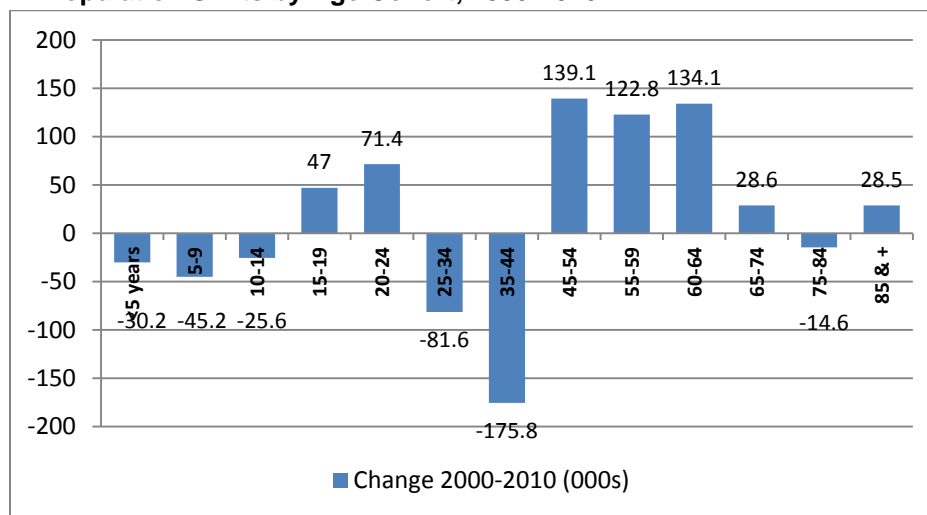
continues to grow the 80 and over cohorts. These changes are illustrated in **Figure 2.1**, which presents a side-by-side comparison of the state's population, by age, in 2000 and 2010. **Figure 2.2** documents the magnitude of the gains and losses by age group.

Figure 2.4: Massachusetts Population Distribution by Age, 2000-2010



Source: Decennial Census, 2000-2010

Figure 2.5: Population Shifts by Age Cohort, 2000-2010



Shown in thousands

Source: Decennial Census, 2000-2010

It is not just the age profile that is shifting, but the racial and ethnic composition of the residents. The older population is made up, disproportionately, of non-Hispanic White baby boomers, while the younger population is increasingly children of color. The racial make-up of the state's youth population (those under 18) is now 67.3 percent non-Hispanic White and 32.7 percent racial/ethnic minority groups. Among those age 18 and over, 78.6 percent are non-Hispanic White and just 21.4 percent are people of color. (See **Table 2.14**).

In the Boston region, the state's most populous, children of color represent 40.2 percent of the youth population, up from 32.4 percent in 2000. In the Pioneer Valley, 39.5 percent of those under 18 are in racial/ethnic minority groups; in 2000, just 31 percent were. In Boston's Inner Core subregion, children of color constitute the majority of the under 18 population (57.0%) and non-Hispanic White youth are the minority (43.0%). Of course, this distribution varies widely from region to region and within regions, by subregion and municipality.

Graying Suburbs and a Smaller but More Diverse Youth Population

As the state's White population ages, suburban towns are graying more quickly than the urban core. This also mirrors a national trend. Not only are the number of seniors increasing at a faster rate in the suburbs than in the cities, so too are the baby boomers (those age 45-64).

The school age population (5-17 year olds) overall declined by 4.6 percent between 2000 and 2010, but there were dramatic shifts by race and ethnicity and place of residence. While the number of school age children is expected to continue to shrink overall, the number of children of color is increasing. These shifts have resulted from the aging and low fertility rates of non-Hispanic Whites, coupled with immigration and higher fertility rates of younger Hispanics and other racial/ethnic minority groups groups.⁴⁵ The number of non-Hispanic White school children declined by 13.2 percent as the number of Asian and Hispanic school age children increased by 32.6 and 31.2 percent, respectively. The number of Black school age children also rose, by 8.2 percent.

⁴⁵ Most of the growth in Hispanic population today is not due to immigration, but to births to existing residents. University of Michigan and Brookings Institute demographer William Frey notes that, even if immigration were to stop tomorrow, the U.S. child population will be majority minority by 2050 (by around 2023 if current immigration trends continue).

Table 2.14: Shifts in Population by Race/Ethnicity Between 2000 and 2010: Under 18 v Over 18

Benchmarks Region	MA TOTAL	Berk- shire	Boston	Cape & Islands	Central	North- east	Pioneer Valley	South- east
% Minorities Over 18, 2000	16.1%	5.0%	22.0%	6.2%	11.6%	12.8%	16.6%	10.2%
% Minorities Over 18, 2010	21.4%	7.7%	28.8%	7.9%	16.5%	18.4%	21.6%	13.5%
% Minorities Under 18, 2000	24.8%	9.2%	32.4%	10.3%	19.3%	21.4%	31.0%	16.0%
% Minorities Under 18, 2010	32.7%	16.4%	40.2%	16.4%	27.6%	29.7%	39.5%	22.7%
Change in # Minorities Under 18, 2000-2010	92,309	1,410	37,333	1,748	14,343	15,484	8,261	13,730
Change in # Non-Hispanic Whites Under 18, 2000-2010	(173,450)	(5,973)	(53,394)	(9,884)	(20,496)	(30,258)	(23,038)	(30,407)
% Change in # Minorities Under 18, 2000-2010	24.9%	50.7%	20.5%	33.4%	38.9%	30.1%	16.1%	33.2%
% Change in # Non-Hispanic Whites Under 18, 2000-2010	-15.4%	-21.8%	-14.0%	-21.8%	-13.3%	-16.0%	-20.2%	-14.0%
# Communities w Children of Color in Majority in 2000	11	0	5	1	0	2	2	1
# Communities w Children of Color in Majority in 2010	17	0	9	1	2	2	2	1

Source: U.S. Census Bureau, Decennial Census 2000, 2010

Table 2.15 depicts the 2010 distribution of school age children by region by race/ethnicity and the change between 2000 and 2010. This table also documents the number of municipalities in each region where Blacks and Latinos represent less than 5 percent of the school age children and the share of the region's children (by race) that reside in the region's largest city. Racial and ethnic characteristics are explored further in the following section.

Table 2.15: School Age Population by Region by Race/Ethnicity and Percent Change 2000 – 2010

Region	Population 5-17 year olds, 2010						Population Change (5-17 year olds) 2000 - 2010				
	non-Hispanic White	Black	Asian	Hispanic	Total	Black and Latino share	non-Hispanic White	Black	Asian	Hispanic	Total
Berkshire (32 cities and towns)	16,569	830	241	1,068	19,504	9.7%	-22.0%	35.6%	0.0%	69.5%	-16.0%
# of municipalities w <5% Black and Latino children						20					
Share in city w largest school age pop. (Pittsfield)	32.1%	69.3%	36.5%	54.1%	36.5%						
Boston (75 cities and towns)	242,196	50,042	32,208	56,275	395,435	26.9%	-11.9%	-2.7%	33.8%	32.5%	-2.6%
# of municipalities w <5% Black and Latino children						31					
Share in city w largest school age pop. (Boston)	5.9%	57.2%	16.0%	38.7%	18.0%						
Cape & Islands (23 cities and towns)	27,167	920	574	1,334	32,112	7.0%	-22.2%	8.1%	113.4%	60.1%	-17.1%
# of municipalities w <5% Black and Latino children						6					
Share in city w largest school age pop. (Barnstable)	19.7%	26.0%	19.5%	22.3%	19.3%						
Central (62 cities and towns)	103,133	6,993	6,280	19,037	139,347	18.7%	-11.0%	46.4%	45.8%	33.4%	-2.0%
# of municipalities w <5% Black and Latino children						31					
Share in city w largest school age pop. (Worcester)	10.9%	64.9%	31.3%	49.9%	20.1%						
Northeast (42 cities and towns)	122,325	5,268	10,162	28,758	169,529	20.1%	-11.9%	50.7%	22.0%	26.8%	-3.6%
# of municipalities w <5% Black and Latino children						28					
Share in city w largest school age pop.	5.2%	27.8%	42.2%	16.3%	10.3%						
Pioneer Valley (69 cities and towns)	70,433	9,891	2,818	28,566	113,398	33.9%	-19.6%	-3.0%	37.5%	23.3%	-9.3%
# of municipalities w <5% Black and Latino children						37					
Share in city w largest school age pop. (Springfield)	7.9%	78.1%	28.1%	56.9%	26.6%						
Southeast (48 cities and towns)	143,570	12,686	3,445	12,791	182,511	14.0%	-11.3%	46.1%	25.6%	47.9%	-4.8%
# of municipalities w <5% Black and Latino children						34					
Share in city w largest school age pop. (Brockton)	3.3%	53.9%	11.1%	18.1%	9.5%						
MASSACHUSETTS (351 cities and towns)	725,393	86,630	55,728	147,829	1,051,836	22.3%	-13.2%	8.2%	32.6%	31.2%	-4.6%
# of municipalities w <5% Black and Latino children						187					

Source: 2000 and 2010 Decennial Census

Segregated Communities Result in Segregated Schools

In spite of the growing diversity in student enrollment statewide, Massachusetts' public school students are increasingly segregated by race and class. Sixty-eight percent of the Commonwealth's Black school age children (5-17) live in one of the eight majority minority communities, as do 54 percent of Latino school children and 24 percent of Asians. By comparison, fewer than 7 percent of non-Hispanic White children do.

Massachusetts consistently ranks among the nation's top performing K-12 educational systems, but the HUD opportunity indices prepared for the four Sustainable Communities Regional Planning Grant recipients documented significant performance gaps between the schools most Black and Hispanic children attend and those attended by their non-Hispanic White peers. Across the region, all White children, both poor and non-poor, on average attend schools ranked in the third quintile of the HUD opportunity indices, which measure reading and math proficiency compared to state-wide performance levels. In contrast, Black and Latino children attend low-opportunity, second quintile schools. These disparities are particularly striking in the low income, majority-minority cities. The most extreme example is the City of Lawrence, where more than 97 percent of public school students are Black or Hispanic. Just 33 percent of 10th grade students scored advanced or proficient on the 2011 MCAS tests. English is not the first language for three out of four students, and one out of four has limited proficiency in English. One in five is enrolled in special education classes, and 82 percent are eligible for free lunch because their family income is at or below 130 percent of the poverty level.

The Boston Public School district, the state's largest, faces similar challenges. Fifty-six percent of its 10th grade students scored advanced or proficient on the 2011 MCAS tests. English is not the first language of 45 percent of the students, and 31 percent has limited English proficiency. Nineteen percent are enrolled in special education classes, and 62 percent are eligible for free lunch. One-quarter of the city's 77,000 school-aged children do not attend Boston public schools. More than 4,000 of these students attend the 21 state-chartered Charter schools in Boston; 3,000 attend suburban METCO schools; and 12,000 attend private or parochial schools. (See **Inset 2.2** for a description of METCO.)

Increasingly, the population being educated in Massachusetts' schools will be made up of children of color and Hispanic origin. This transformation in child and school-age populations underscores the need to improve educational quality and outcomes for racial and ethnic groups with traditionally lower achievement rates. The current achievement gaps between student groups will have increasingly serious economic implications if not addressed. With the non-Hispanic White population shrinking and the entry-level workforce increasingly made up of young people of color, the region could face serious shortages in many critical professions, including science, medicine, and engineering where racial/ethnic minority groups have historically been under-represented.

Inset 2.2: METCO: A Regional Approach to School Desegregation

The Commonwealth's METCO (Metropolitan Council for Educational Opportunity) program was founded in 1966 to increase racial/ethnic diversity and reduce racial isolation in Massachusetts' public schools. It is the second oldest inter-district and voluntary school assignment program in the nation. METCO's mission is to provide students from the Boston and Springfield Public schools (BPS and SPS) with access to enriching educational and extracurricular opportunities in participating school districts that will enhance their academic, personal, and interpersonal growth.

During the 2012-2013 school year, 3,326 students from the BPS and SPS are enrolled in the METCO program. They attend schools in 37 school districts across Massachusetts. The receiving districts, which received state-funded grants totaling nearly \$17 million, are as follows: Arlington; Bedford; Belmont; Braintree; Brookline; Cohasset; Concord; Concord-Carlisle; Dover; Dover Sherborn; East Longmeadow; Foxborough; Hampden Wilbraham; Hingham; Lexington; Lincoln; Lincoln Sudbury; Longmeadow; Lynnfield; Marblehead; Melrose; Natick; Needham; Newton; Reading; Scituate; Sharon; Sherborn; Sudbury; Southwick Tolland; Swampscott; Wakefield; Walpole; Wayland; Wellesley; Weston; and Westwood. Most of the METCO students come from the Boston Public Schools, a system that is 13 percent White, and enroll in systems that are more than 90 percent White. During the 2010-2011 school year, 74.2 percent of the participating students were Black, 17.5 percent were Hispanic, 3.5 percent were Multi-Racial, and 3.0 percent were Asian.

Children who participate in METCO have consistently shown higher levels of reading, math, and language arts proficiency than their peers who remain in Boston and Springfield, performing at levels that approach or equal statewide averages. Ninety-three percent of METCO students graduate from high school, compared to 81.5 percent of pupils statewide and 61 percent of the students in Boston. The METCO dropout rate, which was 2.9 percent in 2009, is 70 percent lower than the 2009 statewide average of 9.3 percent.

In its January 2013 Report to the State Legislature, the Executive Office of Education concluded that "the METCO program is having positive impact on students' postsecondary aspirations, their four-year high school graduation rates, and their enrollment rates in public and independent institutions of higher education." Among its findings:

- For each year since 2006, the aggregate four-year graduation rate of METCO students has surpassed 94%, and has also consistently exceeded or equaled the graduation rates of their peers in sending and receiving school districts.
- For each year since 2006, the percentage of METCO students who indicated their intent to pursue postsecondary educational opportunities exceeded the average percentage for all high school students in Massachusetts as well as the percentages in the BPS and the SPS.
- Greater percentages of METCO students have enrolled in out-of-state public and independent colleges and universities than their peers in the BPS and the SPS, and more METCO students have enrolled in independent institutions of higher education in Massachusetts than their peers in both sending and receiving districts.

In spite of its successes, no new suburban districts have enrolled in METCO since the mid-1970s and funding has been unstable and insufficient to meet demand for the program.

Economic Opportunity, Jobs and Transportation

Access to Employment

Massachusetts' racial/ethnic minority group households are more likely than their non-Hispanic White counterparts to live in communities with public transportation, but many still face difficult daily commutes. Even though 38 percent of all Black households live in Boston, which boasts one of the nation's most extensive transit systems and highest concentration of jobs in the central city, residents of racially concentrated sections of Roxbury, Dorchester, Mattapan and Hyde Park face among the longest commuting times. The City of Boston's *2010 Analysis of Impediments to Fair Housing* compared commuting times, modes of transportation, and job location for residents living in census tracts where more than 90 percent of the residents were people of color (in 2000) versus census tracts where fewer than 10 percent of the residents were people of color. The comparison revealed the following:

- More than 15 percent of workers in the racially identified census tracts had commutes of greater than one hour compared to less than 5 percent of those in the predominantly white tracts;
- Two-thirds of those with hour+ commutes from racially identified areas travelled by public transportation compared to just 40 percent of those from the mostly white areas; and
- In total, just 2 percent of workers from the tracts with low numbers of people of color had one hour+ commutes by public transit to get to work compared to 10 percent of workers from the racially concentrated tracts.

Similar issues of isolation from jobs affect people with disabilities. Like racial and ethnic minority groups, they tend to rely more heavily on public transportation. (The means of commuting to work of the state's major racial/ethnic groups are depicted in **Table 2.16**.) A 2006 settlement agreement in litigation brought by the Boston Center for Independent Living requires the Massachusetts Bay Transportation Authority to engage in a wide array of activities to improve the public transit system's compliance with the Americans with Disabilities Act and by making major improvements in equipment, facilities and services, but much remains to be accomplished before the system will be equally usable to people with disabilities.

In spite of these transit-equity issues, the Sustainable Communities opportunity indices provided by HUD indicated a relatively low and statistically insignificant disparity among racial groups and among poor families in the job accessibility index for both the Hartford-Springfield metro area and the Boston metro area. The job accessibility index is based on factors such as census tract job and worker counts, the flow of workers from home to work, and commuting. The low level of disparity suggests that fair housing characteristics such as race and place are a lesser barrier to equity in the availability of work. While racial and ethnic minority groups continue to face challenges with respect to labor engagement, the low level of disparity suggests that fair housing characteristics such as race and place are a lesser barrier to equity in the availability of work.

Educational Attainment and Labor Force Engagement

Unlike its jobs accessibility index, HUD's labor engagement index, evidenced a much greater disparity between Blacks and Whites and Hispanics and Whites, both in the Springfield-Hartford and Boston metro areas, indicating that Boston's communities of color do not fully benefit from their proximity to employment opportunities.⁴⁶ A number of studies have linked lower levels of educational attainment among Blacks and Latinos with lower rates of job participation and higher rates of unemployment. **Table 2.16** documents this gap in educational attainment. While 41.5 percent of White and 55.2 percent of Asians over the age of 25 have a bachelor's degree or higher, just 24.1 percent of Blacks and 17 percent of Latinos do. More than one third of Latino adults have less than a high school diploma; in contrast just 7.5 percent of Whites lack their diploma.

Table 2.16: Educational Attainment and Commuting Patterns by Race/Ethnicity

	POPULATION GROUP	Total population	White*	Black*	Asian*	Hispanic
EDUCATIONAL ATTAINMENT	Population 25 years and over	4,502,048	3,589,266	247,814	235,678	344,449
	Less than high school diploma	10.8%	7.5%	17.0%	17.4%	34.4%
	High school graduate (includes equivalency)	25.9%	26.2%	29.0%	14.8%	27.4%
	Some college or associate's degree	24.2%	24.8%	29.9%	12.5%	21.2%
	Bachelor's degree	22.3%	23.9%	15.0%	25.0%	10.5%
	Graduate or professional degree	16.8%	17.6%	9.1%	30.2%	6.5%
COMMUTING	Workers 16 years and over	3,216,363	2,546,667	176,157	174,707	253,775
	Car, truck, or van - drove alone	72.2%	76.0%	60.2%	55.3%	55.9%
	Car, truck, or van - carpooled	8.2%	7.0%	8.9%	14.1%	14.7%
	Public transportation (excluding taxicab)	8.9%	6.7%	19.5%	17.8%	17.5%
	Walked	4.6%	4.0%	6.3%	8.0%	6.3%
	Other means	1.6%	1.4%	1.9%	1.7%	2.8%
	Worked at home	4.5%	4.9%	3.1%	3.2%	2.9%
	Mean travel time to work (minutes)	28.0	27.9	30.8	30.3	25.9

Source: 2011 1-Year American Community Survey (Massachusetts), Table S0201

⁴⁶ Chapter 6 describes HUD's process for analyzing opportunity and identifying disparities among population groups in their access to opportunity. Table 6.6 (Disparities in Access to Opportunity in Massachusetts 4 Sustainable Communities Regional Planning Grant Regions) displays disparities across a range of dimensions. The labor engagement and job accessibility index for the Boston and Hartford-Springfield metro areas are presented in the table below:

Sustainable Communities Region	Dimension	Disparity Black-White	Disparity Hispanic-White	Disparity Asian-White
Capitol Region Council of Governments	Labor Engagement Index	2.90	3.04	0.36
	Job Accessibility Index	0.10	0.61	-0.93
Metropolitan Area Planning Council	Labor Engagement Index	2.65	2.35	0.53
	Job Accessibility Index	0.15	0.83	0.44

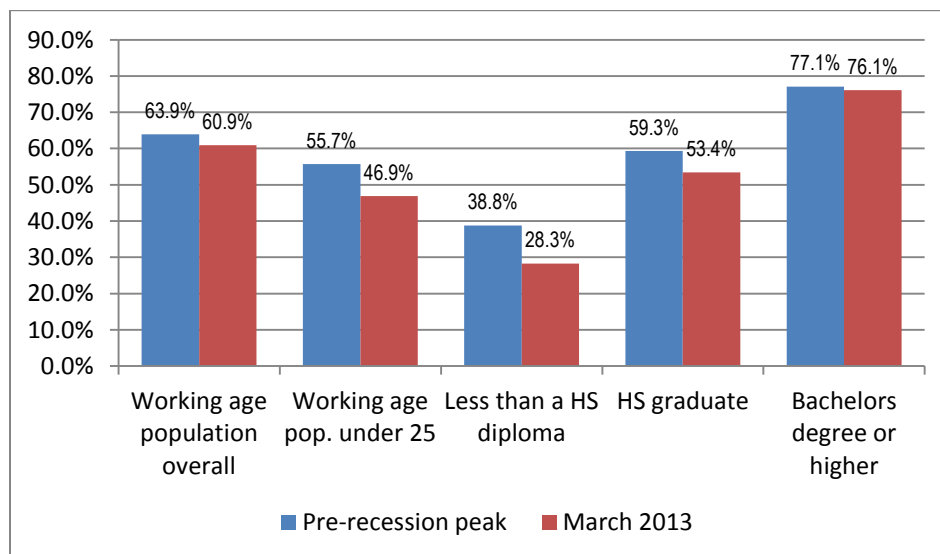
Table 2.17: Labor Force Participation, Employment and Unemployment by Race/Ethnicity

Age	Employment Status	Black*	Black Rate vs White*	Asian*	Asian Rate vs White*	White*	Hispanic	Hispanic Rate vs White*
16-24 yrs	In Civilian Labor Force	58.4%	0.94	44.0%	0.71	62.2%	57.9%	0.93
	Employed (in civilian labor force)	76.2%	0.90	86.0%	1.02	84.6%	73.6%	0.87
	Unemployed (in civilian labor force)	23.8%	1.54	14.0%	0.91	15.4%	26.4%	1.71
25-54 yrs	In Civilian Labor Force	82.5%	0.95	82.1%	0.95	86.7%	77.1%	0.89
	Employed (in civilian labor force)	86.3%	0.93	92.6%	1.00	92.8%	88.5%	0.95
	Unemployed (in civilian labor force)	13.7%	1.91	7.4%	1.03	7.2%	11.5%	1.60
55-69 yrs	In Civilian Labor Force	56.3%	0.87	57.0%	0.88	65.0%	49.1%	0.76
	Employed (in civilian labor force)	89.4%	0.96	90.8%	0.98	93.1%	90.3%	0.97
	Unemployed (in civilian labor force)	10.6%	1.53	9.2%	1.33	6.9%	9.7%	1.41
70 yrs &+	In Civilian Labor Force	13.2%	1.21	6.1%	0.56	10.9%	11.3%	1.03
	Employed (in civilian labor force)	97.3%	1.04	69.4%	0.74	93.8%	94.2%	1.00
	Unemployed (in civilian labor force)	2.7%	0.44	30.6%	4.90	6.2%	5.8%	0.93
Under 55 yrs	% of Male Population in Armed Forces	0.2%		0.0%		0.3%	0.1%	
	% of Female Population in Armed Forces	0.0%		0.0%		0.0%	0.0%	

Source: 2011 1-Year American Community Survey (Massachusetts)

That younger workers and those without a college education have been disproportionately affected by the recession can be seen in **Figure 2.6**, which documents the pre-recession employment rate and the rate reported for March 2013 by the Current Population Survey. The employment rate is the proportion of the working age population (those 16 years of age or older) who are working. The overall rate (60.9%) remains 3.0 percentage points below its pre-recession level. For working age youth under 25, however, the employment rate in March was just 46.9 percent, 8.8 percentage points below its pre-recession peak. And for those with less than a high school diploma, it was just 28.3 percent, 10.5 percentage points below its pre-recession peak.

Figure 2.6: Employment Pre- and Post-Recession by Educational Attainment and Age



Source: "Massachusetts Economic Outlook," presented by Alan Clayton-Matthews at the New England Economic Partnership Spring Conference, May 2013

Income and Poverty

Massachusetts families and individuals did not fare well financially during the first decade of the new millennium. Real incomes fell, poverty rates rose, and housing affordability problems worsened. (Most indicators of economic distress have shown some improvement since the recession ended in 2009, but affordability is still a greater problem now that it was in 2000. Adjusted for inflation, the 2011 median household income (\$64,504) was more than 5 percent lower than it had been a decade earlier. Families fared somewhat better: their 2011 median income (\$82,009) was down by just 1.5 percent. The relatively better condition of families is due to the fact that they have more wage earners. Worst off were renters who saw their incomes drop by more than 15 percent between 1999 and 2011. In 1999, the median income of renter households was about 48 percent of the median income of owner households. By 2011, it had dropped to less than 41 percent (**Figure 2.7**).

Disparities by Race and Ethnicity

There were significant differences by race and ethnicity as well. While the median family income of the state's Asian families rose by nearly 10 percent, the median income of Black and Latino families dropped by 7 percent and 4 percent, respectively. Non-Hispanic White families held their own, registering a modest gain of just over one percent. Asian families now earn more than 95 percent of what their non-Hispanic White counterparts do, having closed the gap from 88 percent in 1999. The gap in median income between Black and Latino families and non-Hispanic Whites (and Asians), however, has continued to grow. Black families now earn 54 percent of their White counterparts, down from 58 percent in 1999, while Hispanics earn just 40 percent, down from 42 percent. **Figure 2.8** shows the median income of Massachusetts families by race and ethnicity in 1999 and 2011.

Figure 2.7: Median Family, Household Income and Median Income by Tenure, 1999 and 2011

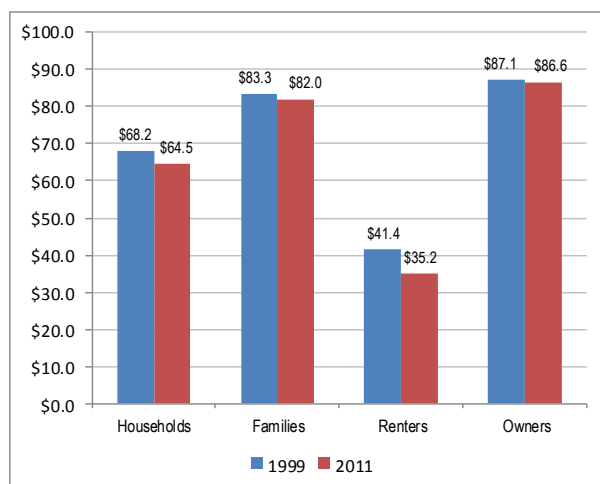
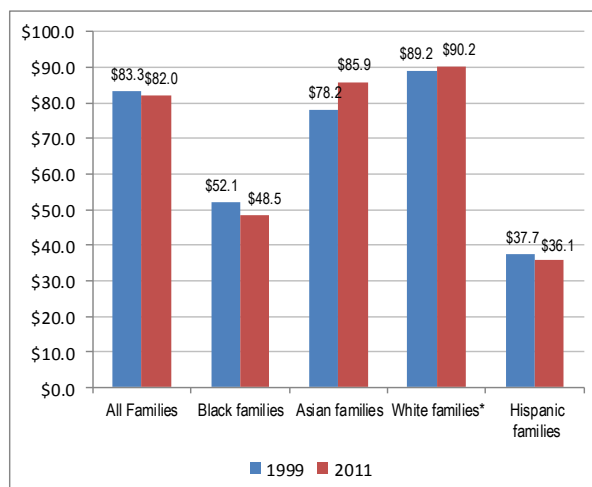


Figure 2.8: Median Family Income by Race/Ethnicity, 1999 and 2011



* non-Hispanic

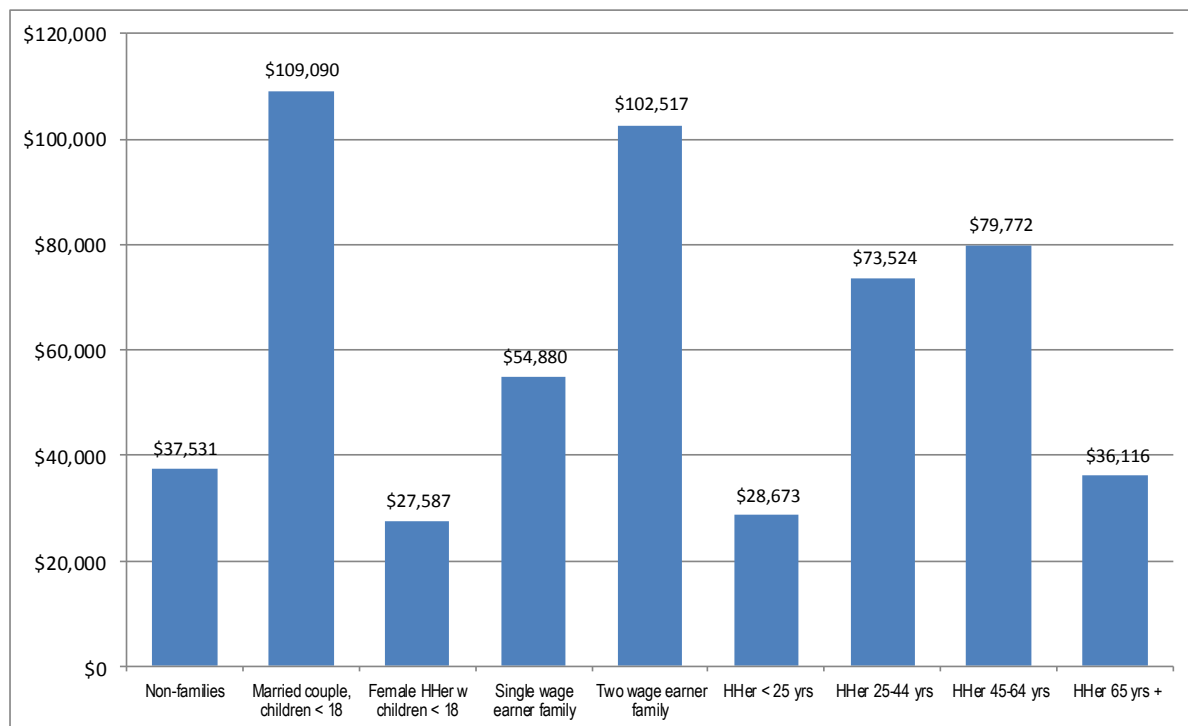
Incomes are shown in thousands (\$000), in 2011 dollars

Source: 1990, 2000 Decennial Censuses, 2009-2011 3-Year American Community Survey, Massachusetts

Wide Disparities in Earnings by Household Type

In addition to the earnings gap by tenure, race and ethnicity, there are wide disparities in economic well-being among families and households by age and household structure. **Figure 2.9** documents these variations. While married couple families with children enjoyed a median income in 2011 of more than \$109,000, the median income for single mothers with children was less than \$28,000. Two wage-earner families reported a 2011 median income of more than \$102,000, compared to families with a single wage earner, who earned less than \$55,000.

Figure 2.9: Median Income by Household Type

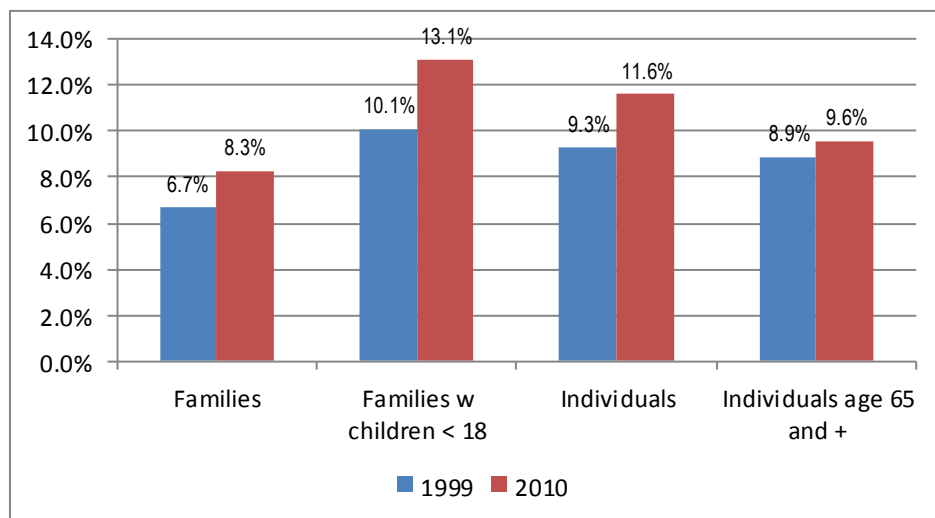


Source: 2009-2011 3-Year American Community Survey, Massachusetts

Increasing Poverty and Disparities by Race and Ethnicity

Poverty increased statewide during the Great Recession for all household types. As **Figure 2.10** shows, the individual poverty rate rose from 9.3 percent in 1999 to 11.6% in 2010. The greatest increase, however, was among families with children; that rate rose from 10.1 percent to 13.1 percent.

Figure 2.10: Poverty Rates by Household Type, 1999 and 2010



Source: 1999 - 2000 Decennial Census SF#; 2010 - 2011 1-Year American Community Survey

There is wide variation, too, in rate of poverty by age, race and ethnicity, as shown in **Table 2.18**. Among Asians and non-Hispanic Whites, the poverty rate peaks in the 18-24 year old cohort. This reflects the substantial student and young adult population concentrated in metro Boston and the Commonwealth's other student centers. Among Blacks and Latinos, the childhood poverty rate is substantially greater than the rate among the working age population (25-64). This is not the case with either Asians or Whites.

Table 2.18: Population Living in Poverty by Age and Race/Ethnicity

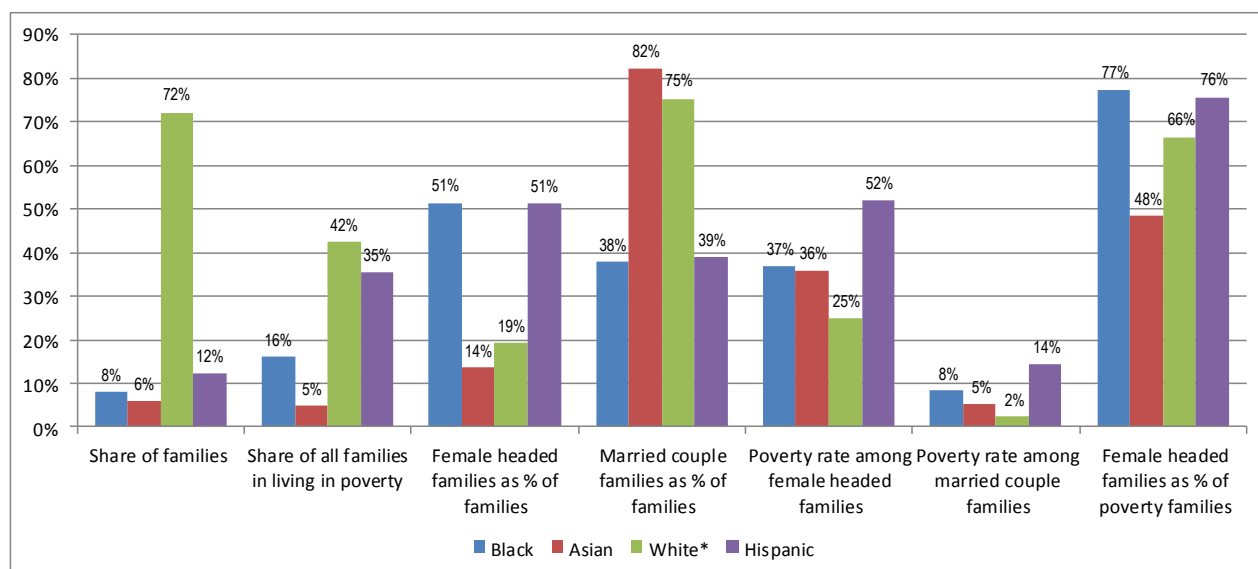
Age	Below Poverty				Poverty Rate				Ratio to Non-Hispanic White			
	Black	Asian	Hispanic	White*	Black	Asian	Hispanic	White*	Black	Asian	Hispanic	White*
Total Below Poverty Level	96,012	47,742	186,293	365,790	22.7%	14.0%	30.5%	7.6%	3.00	1.85	4.03	1.00
Under 5 years	11,029	2,427	25,599	20,111	34.0%	10.0%	41.4%	8.8%	3.86	1.14	4.71	1.00
5 to 11 years	13,508	3,079	32,827	26,103	29.8%	10.0%	41.6%	7.1%	4.22	1.42	5.88	1.00
12 to 17 years	11,127	3,406	23,126	24,205	26.8%	14.3%	34.6%	7.0%	3.84	2.05	4.96	1.00
18 to 24 years	13,418	12,374	24,804	63,562	27.6%	35.2%	31.6%	17.2%	1.60	2.04	1.83	1.00
25 to 64 years	39,961	20,908	71,455	175,197	18.0%	10.3%	24.0%	6.4%	2.83	1.62	3.76	1.00
65 years and over	6,969	5,548	8,482	56,612	20.8%	22.7%	31.5%	7.3%	2.85	3.10	4.31	1.00

Source: 2009-2011 American Community Survey, Table B17001

Family status is an important determinant of childhood poverty. Fewer than 4 percent of Massachusetts' married couple households with children live in poverty compared to 34 percent of female headed households with children and no husband present. This translates into significant disparities across racial/ethnic groups, as **Figure 2.11** illustrates. Just over 14 percent of Asian and 19 percent of White families with children are headed by a single female, but 51 percent of Hispanic and Black families are.

Even among married couple families, Latinos experience substantially higher rates of poverty than any other group.

Figure 2.11: Poverty Status by Family Type



Includes families with children under 18 living at home.

Source: 2009-2011 American Community Survey, Table B17010

Characteristics of Massachusetts Residents with Disabilities

Defining Disability

The wide range of disabling conditions and lack of a single definition of what constitutes a disability make it challenging to quantify their prevalence. Commonly used definitions vary, both in terms of who is protected under civil rights and fair housing laws and who is eligible for state and federal housing programs. Under the Americans with Disabilities Act (ADA), an individual with a disability is a person who: (1) has a physical or mental impairment that substantially limits one or more major life activities; or (2) has a record of such an impairment; or (3) is regarded as having such an impairment. In 2008, the ADA was amended, and while the ADA Amendment Act (ADAAA) didn't change the definition of disability, it did clarify and broaden it to encompass impairments that substantially limit a major life activity. The ADAAA emphasized that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted under the terms of the original Act.

The American Community Survey (ACS) defines disability as “a long-lasting physical, mental, or emotional condition. This condition can make it difficult for a person to do activities such as walking, climbing stairs, dressing, bathing, learning, or remembering. This condition can also impede a person from being able to go outside the home alone or to work at a job or business.” This broad definition includes persons living in institutionalized settings, group quarters or service-enriched housing and many more who live independently in the private market, although the ACS reports only on the non-

institutionalized civilian population.⁴⁷ The 2011 1-Year ACS is the source of the information in this section unless otherwise noted.

Persons with Disabilities Living in Institutions and/or Group Quarters

Historically, those with significant disabilities lived in institutional settings like hospitals, state schools and nursing homes, or in quasi-institutional settings like community residences and halfway houses. There they were segregated with other people within a specific category of disability, such as mental illnesses, physical disabilities or developmental disabilities. Institutional and group settings do not offer the same housing opportunities typically accorded people without disabilities. They are often group settings where individuals do not control their living space or select the people with whom they live. Generally they are not subject to landlord-tenant laws, and residents may be evicted without notice or cause. Often, an individual with disabilities must give up control over decisions about medical treatment as a condition of occupancy. In the past 20 years, however, new programs have emerged to serve more people with a wider range of disabilities and to provide more integrated housing options. This change reflects both the extension of fair housing and civil rights laws to people with disabilities – and litigation to enforce these rights – and major reductions in state hospital beds.

The enactment of Section 504 of the 1973 Rehabilitation Act, the Americans with Disabilities Act, and the Supreme Court decision in *Olmstead v. L.C.* established the principle that people with disabilities should receive benefits, services, and housing in the most integrated setting appropriate to their individual needs.⁴⁸ In Massachusetts, a series of lawsuits led to the closure of a number of state schools and hospitals between 2000 and 2010. These changes are documented in the 2010 Census,⁴⁹ which reported

⁴⁷ The ACS considers a person to have a disability if (s)he answers “yes” to one or more of these six questions:

- Hearing Disability (asked of all ages): Is this person deaf or does he/she have serious difficulty hearing?
- Visual Disability (asked of all ages): Is this person blind or does he/she have serious difficulty seeing even when wearing glasses?
- Cognitive Disability (asked of persons ages 5 or older): Because of a physical, mental, or emotional condition, does this person have serious difficulty concentrating, remembering, or making decisions?
- Ambulatory Disability (asked of persons ages 5 or older): Does this person have serious difficulty walking or climbing stairs?
- Self-care Disability (asked of persons ages 5 or older): Does this person have difficulty dressing or bathing?
- Independent Living Disability (asked of persons ages 15 or older): Because of a physical, mental, or emotional condition, does this person have difficulty doing errands alone such as visiting a doctor’s office or shopping?

⁴⁸ The U.S. Supreme Court held in its 1999 decision in *Olmstead v. L.C.* that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the Americans with Disabilities Act (ADA). The Court held that public entities must provide community-based services to persons with disabilities when (1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity. The Court interpreted the ADA to require states to provide services “in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” In addition, the Court instructed each state to develop an *Olmstead* plan to demonstrate efforts to be consistent with the ruling.

⁴⁹ It is important to note that Census and ACS data on disability status often exclude institutionalized populations, although research estimates that approximately 49.4% of the institutionalized population (which includes correctional and juvenile facilities in addition to nursing and other facilities) (nationally) is comprised of persons with disabilities (citing Brault, Matthew, “Disability Status and the Characteristics of People in Group Quarters: A Brief Analysis of Disability Prevalence Among the Civilian Noninstitutionalized and Total Populations in the American Community Survey (February 2008) (<http://www.census.gov/people/disability/files/GQdisability.pdf>).

that the number of residents residing in state hospitals and schools and similar institutions dropped by half between 2000 and 2010, from over 6,660 to just 3,224. The number of residents living in nursing homes or other skilled nursing facilities declined as well, from 55,837 in 2000 to 43,833 in 2010. While these 47,000 residents represent a small segment of the state's population, they face a host of equity and access to quality of life issues.

Characteristics of Persons with Disabilities Among the Non-Institutionalized Population

Table 2.19 documents the nature, number and prevalence of disabilities among Massachusetts' non-institutionalized population.⁵⁰ This table shows how dramatically the prevalence of disability rises with age, with 47 percent of the population 75 years or older report some type of disability. Over 24 percent of these seniors report that their condition limits their ability to perform activities such as going shopping or to the doctor and nearly 13 percent report that it limits their ability to perform activities of daily living, such as dressing or bathing. Almost 60 percent of seniors reporting a disability cited difficulty walking or climbing stairs, considered an ambulatory difficulty. With an aging population of seniors – most of whom live alone in a home they own, in communities where access to stores and services requires an automobile – the challenge of meeting these needs can be expected to increase dramatically.⁵¹ The state Money Follows the Person five-year grant demonstration program administered through EOHHS estimates serving 2,192 people with disabilities and/or elders out of institutional placements.⁵²

The 2011 ACS reported that there were nearly 300,000 residents with disabilities age 65 or over and more than 362,000 between the ages of 21 and 65. There are also more than 79,000 children with disabilities (under 20) whose disabilities may pose housing challenges for their families. Non-elder adults represent nearly half of all Massachusetts residents with disabilities, and represent more than 9 percent of the state's 18-65 year olds.

According to the 2010 Census, there are 238,882 group quarter units in Massachusetts, and of those units, 74,667 are for institutionalized populations.

⁵⁰ Because many people experience more than one disabling condition the total number of persons with disabilities is considerably less than the number of disabling conditions.

⁵¹ The percentage of persons with disabilities appears to have decreased since 2000 however; as 2000 Census figures approximate the population (under 5) at 18% (2000 Census SF 3).

⁵² Source: EOHHS.

Table 2.19: Types of Disability by Age

Disability Type	All ages	5-15	16-20	21-64	65-74	75 and over
Any Disability	740,400	49,800	26,300	362,300	104,900	194,200
Visual	117,300	5,300	3,200	53,300	14,800	38,700
Hearing	202,700	6,700	2,800	65,900	37,800	87,600
Ambulatory	364,900	5,700	3,700	178,900	60,400	116,300
Cognitive	300,600	38,500	19,600	171,100	20,700	50,700
Self-Care	151,800	11,100	4,000	67,900	17,200	51,500
Independent Living	284,500	NA	9,700	138,700	32,300	100,800
Disability Type	All ages	5-15	16-20	21-64	65-74	75 and over
Any Disability	11.4%	5.8%	5.3%	9.3%	22.4%	47.0%
Visual	1.8%	0.6%	0.7%	1.4%	3.2%	9.4%
Hearing	3.1%	0.8%	0.6%	1.7%	8.1%	21.2%
Ambulatory	5.9%	0.7%	0.7%	4.6%	12.9%	28.2%
Cognitive	4.9%	4.5%	4.0%	4.4%	4.4%	12.3%
Self-Care	2.5%	1.3%	0.8%	1.7%	3.7%	12.5%
Independent Living	5.3%	NA	2.0%	3.5%	6.9%	24.4%

Source: U.S. Census Bureau, 2011 American Community Survey 1-Year Estimates, Massachusetts

Table 2.20 illustrates the prevalence of persons with disabilities by Independent Living Center (“ILC”) region, with the highest concentration in the Metro Boston area (25%).

Table 2.20: Prevalence by Independent Living Center Region

ILC	% with a Disability
AdLib (Berkshire County)	2%
BCIL (MetroBoston)	25%
CLW (Worcester County)	12%
CORD- (Cape and Islands)	4%
IA (Southeast Region)	10%
ILCNCSA (North Region/Cape Ann)	6%
MILCB (Inner City Boston)	7%
MWCIL (Metro West- Framingham Area)	5%
NILP (Northeast Region – Lowell/Lawrence/Haverhill)	10%
SCIL (Fall River/New Bedford Area)	7%
Stavros (Hampden, Hampton, Franklin Counties)	12%

*With available data

Source: EOHHS, ILCs (calculations based on 2000 Census)

Nearly half of non-elders adults with disabilities reported an ambulatory disability (2011 ACS); 38 percent reported a disabling condition that made living independently difficult and 19 percent cited a self-care disability. 79 percent of the working age population with no disabilities was employed compared to 32 percent of those with disabilities was, and this group was three times more likely to live in poverty. There were 22,444 households with disabilities (primarily non-elders) on DHCD’s June 2012 statewide waiting list for the Section 8 Housing Choice Voucher Program, representing 31 percent of all households on the list (**Table 2.21**).

Table 2.21: Characteristics of Those on Waiting List for DHCD Housing Choice Vouchers

DHCD Housing Choice Voucher Program	# of families	% of total families
Waiting List Total	72,093	100.0%
Income (1)		
Extremely low income <30% AMI	65,810	91.3%
Very low income >30% but <50%	5,138	7.1%
Low income >50% but < 80%	520	0.7%
Family Type		
Families with children (2)	45,252	62.8%
Elderly families (3)	3,614	5.0%
Families with disabilities (3)	22,444	31.1%
Race/ethnicity (4)		
Hispanic, all races	25,863	35.0%
White, not Hispanic	25,787	34.9%
Black, not Hispanic	15,816	21.4%
Asian, not Hispanic	1,620	2.2%
Other	4,740	6.4%

(1) Based on HUD income limits effective 5/31/11 and 12/1/11

(2) This number represents households with more than one member

(3) Includes households with only one member

(4) Applicants may specify more than one race therefore an applicant may be counted more than once

NOTE: In June 2012, a partial purge of the waiting list was completed resulting in lower numbers than in previous years.

Source: DHCD Statewide Housing Choice Voucher Waiting List (6/30/12)

To assist those with disabilities to find accessible housing, the Massachusetts Rehabilitation Commission (MRC), a division of the Executive Office of Health and Human Services, provides a statewide accessible housing registry. One of the few such registries in the country that was created by state legislation, this free online program tracks vacancies of accessible and affordable housing for people with disabilities. The state's anti-discrimination statute, Chapter 151B, requires all owners, or persons having the right of ownership, of accessible housing in Massachusetts to report vacancies to the centralized MassAccess database, which has been managed since 1995 by the non-profit Citizens' Housing and Planning Association (CHAPA) under contract to MRC. (See **Inset 2.3.**)

Inset 2.3: MassAccess

Many of those with disabilities require specialized housing or adaptations to live independently. Massachusetts law (M.G.L. Chapter 151B) requires owners of accessible dwelling units to register the units with a central on line listing service (MassAccess). Mass Access is funded by the Massachusetts Rehabilitation Commission and maintained by Citizens Housing and Planning Association (CHAPA).

When an accessible unit is available for leasing, the landlord must offer the unit to an individual who, within the previous year, notified the owner of the need for an accessible unit. The owner must also provide 15 days notice to Mass Access of the vacancy, and must rent the unit to a qualified individual with disabilities needing the features of the unit during the fifteen notice period. The free, online registry posts vacancies of subsidized affordable housing units and all wheelchair accessible and adapted apartments for people with disabilities.

MassAccess is in the process of updating its software, and we were unable to obtain a breakout of current listings by type or geography for this analysis. However, a review of listings in the Metropolitan Boston area was undertaken as part of the City of Boston's 2010 Analysis of Impediments to Fair Housing, and its findings are instructive. At the end of 2009, MassAccess listed 8,950 accessible units in the five-county metropolitan area, an inventory sufficient to serve just one-fifth of the individuals identified as having mobility or sensory disabilities. Some 3,882 (43.4%) of these units were located in Boston, while 5,068 (56.6%) were located elsewhere in the region. In Boston, nearly 90 percent of the accessible units were subsidized, leaving just 10 percent available to individuals with disabilities who are not eligible for assisted housing. There was somewhat more balance in the remainder of the metropolitan area, where over 75 percent of the accessible units are subsidized and 25 percent are rented at market rates.

Nearly one-third of the Boston metro area's accessible units – those registered with MassAccess – were permitted under the comprehensive permit provisions of MGL 40B, the state's affordable housing law. In communities rated "very high opportunity" based on the Kirwan/McArdle methodology, 48 percent were permitted under 40B; in "high opportunity" communities, the 40B share was 42 percent.

Disability status varies across racial and ethnic groups as **Figure 2.12** illustrates. Asians report a significantly lower incidence of disability than all other groups (4.5% versus 8.9% for Whites, 12.3% for Blacks and 13.8% for Latinos). Breakout by race and age is not currently available, but it is for ethnicity (Hispanic origin). The Hispanic versus non-Hispanic disability rates by age are shown in **Table 2.22**. The prevalence of disabilities among children is substantially greater among Latinos.

Not all people with disabilities have limited incomes. As a group, however, they face significant economic challenges. **Figures 2.13 - 2.15** and **Table 2.23**, which compare the educational and employment status, household income and poverty rate of those with disabilities with those having no disability illustrate the extent of the disparities.

Table 2.22: Number and Prevalence of Disabilities by Age and Hispanic Origin

	Total		Hispanic		Non-Hispanic	
	%	#	%	#	%	#
All Ages	11.4%	740,400	12.6%	80,900	11.2%	659,500
Ages 4 and under	0.8%	2,900	2.0%	1,200	0.6%	1,700
Ages 5-15	5.8%	49,900	10.9%	13,700	4.9%	36,100
Ages 16-20	5.3%	26,300	5.5%	3,700	5.3%	22,500
Ages 21-64	9.3%	362,300	13.8%	49,300	8.8%	313,000
Ages 65-74	22.4%	104,800	38.5%	7,500	21.7%	97,400
Ages 75+	47.0%	194,200	60.4%	5,600	46.7%	188,700

Source: U.S. Census Bureau, 2011 American Community Survey 1-Year Estimates, Massachusetts

Figure 2.12: Disability Rate by Race/Ethnicity

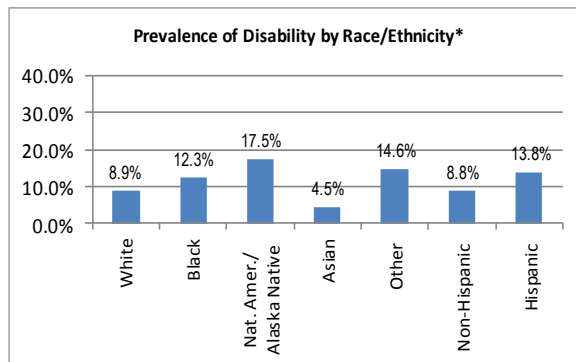
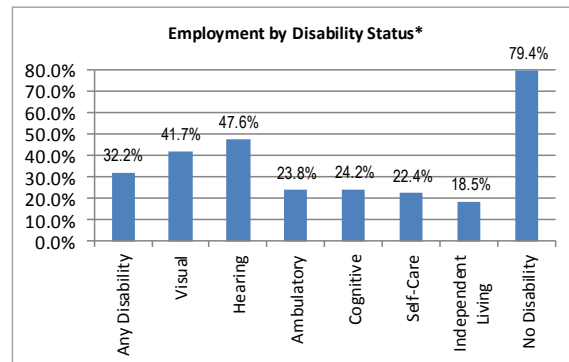


Figure 2.13: Employment by Disability Status



* Non institutionalized population, ages 21-64

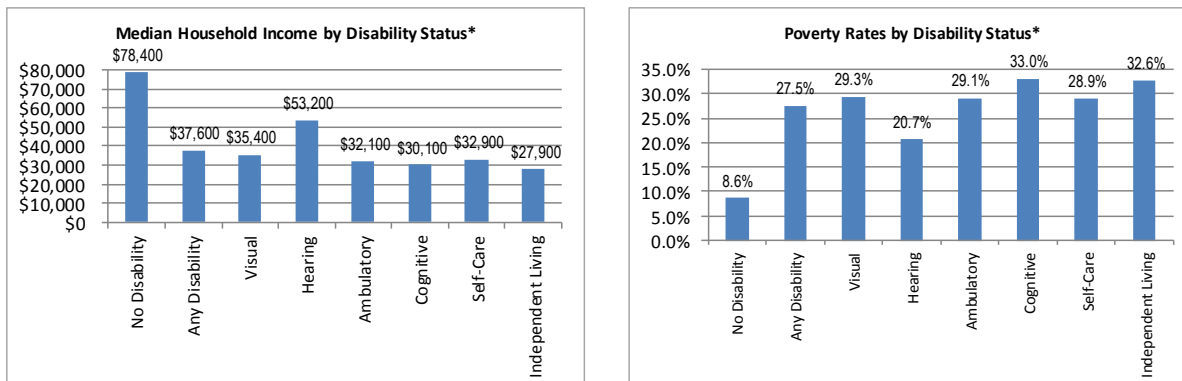
Source: U.S. Census Bureau, 2011 American Community Survey 1-Year Estimates, Massachusetts

Table 2.23: Economic and Social Characteristics by Disability Type

Category	None	Any	Visual	Hearing	Ambulatory	Cognitive	Self-Care	Independent Living
Employed	79.8%	34.8%	36.5%	53.8%	25.1%	25.7%	16.0%	20.1%
Looking for work	33.4	12.9	14.3	22.8	9.4	11.4	6.0	6.6
Full-time , full- year jobs	57.7	19.8	23.7	36.8	14.8	10.1	7.0	7.4
Median annual earnings	\$51,000	\$41,200	\$40,000	\$50,000	\$40,000	\$35,100	\$36,000	\$30,000
Median household income	\$79,000	\$40,900	\$40,400	\$60,000	\$36,000	\$31,500	\$36,000	\$34,400
Poverty rate	7.3	27.3	25.3	16.3	31.0	34.1	33.6	33.1
SSI, SSDI		26.1	26.0	17.1	29.7	34.5	35.9	38.3
High school only	22.5	34.7	36.5	32.8	35.7	35.9	36.1	35.7
College graduate	43.4	15.3	13.4	20.7	12.6	11.3	11.2	10.5
Age 16-20		5.8	0.8	0.5	0.9	4.3	0.7	2.0
Age 21-64		9.2	1.3	1.6	4.5	4.4	1.6	3.5
Age 65-74		21.6	2.7	7.8	12.6	4.3	3.3	6.9

Source: Research, Development and Performance Management Department, Massachusetts Rehabilitation Commission, 2009 Disability Status Report for Massachusetts (using data compiled by Cornell University from the American Community Survey (ACS) for 2009).

Figure 2.14: Household Income by Disability Status Figure 2.15: Poverty Rate by Disability Status



* Non institutionalized population, ages 21-64

Source: U.S. Census Bureau, 2011 American Community Survey 1-Year Estimates, Massachusetts

According to MRC,⁵³ among half of those people with a disability who were not employed cited at least one barrier to employment, the most common the disability itself (80.5%), followed by lack of education or training (14.1%), lack of transportation (11.7%), need for job accommodations (10.3%), and employer or coworker attitudes (7.9%). MRC reports that among persons with a disability who were not in the labor force in May 2012, 87.7% had worked before, and older people with disabilities and those with higher levels of education were more likely to have prior work experience.⁵⁴ MRC also reports that 52% of workers with disabilities earned less than \$25,000 in the previous year, compared to 38% of those without disabilities, and that they earned about 75% of what people without disabilities earn.⁵⁵

Those who receive Supplemental Security Income (SSI) but no housing assistance are especially likely to have serious affordability problems because of their low incomes. SSI is the federal program that provides income to people who are unable to work because of their disability(ies) and who have no other source of income. The monthly SSI benefit in Massachusetts is roughly 16 percent of the area median income, adjusted for household size. Those receiving SSI are among the Commonwealth's most vulnerable populations: extremely low-income non-elders residents with significant long-term disabilities. Many reside in homeless shelters, public institutions, nursing homes, at home with aging parents, or in segregated group quarters, due to the lack of affordable housing in the community.

According to a 2013 report by the Technical Assistance Collaborative and the Consortium for Citizens with Disabilities Housing Task Force, there are more than 115,000 residents in Massachusetts receiving SSI. To rent an efficiency apartment at the HUD fair market rent would require an SSI recipient with no other income to pay 107 percent of her monthly income for rent. To rent a one bedroom apartment would require her to pay 121 percent of income.

⁵³ Massachusetts Rehabilitation Commission, Vocational Rehabilitation Services "Bureau of Labor Statistics Persons with a Disability: Labor Related Issues: May 2012" (citing supplement to the May 2012 Current Population Survey).

⁵⁴ Ibid.

⁵⁵ Massachusetts Rehabilitation Commission, Vocational Rehabilitation Services (citing Research, Development and Performance and Management Department, U.S. Census Bureau, "American Community Survey, 2008-2010*: Disability and Employment Data Review" (March 14, 2012)).

Table 2.24 illustrates the cost burden by HUD Fair Market Rent Area. The cost of a one-bedroom rental unit ranged from a low of 80 percent in Berkshire and Western Worcester Counties to a high of 142 percent in the Boston-Cambridge-Quincy metro area and 144 percent on Nantucket.

Table 2.24: HUD Fair Market Rents (FMRs) Compared to Monthly SSI Payment for Non-Elders Massachusetts Residents with Disabilities, 2012

MSA/Area	SSI Monthly Payment	SSI as % of Median Income	% SSI reqd. to pay for 1BR Apt. at HUD FMR	% SSI reqd. to pay for Efficiency Apt. at HUD FMR
Barnstable Town	\$812	16.10%	116%	104%
Berkshire County	\$812	16.10%	80%	76%
Boston/Cambridge/Quincy	\$812	14.20%	142%	127%
Brockton	\$812	15.90%	106%	105%
Eastern Worcester County	\$812	13.40%	105%	93%
Easton/Raynham	\$812	13.40%	122%	111%
Fitchburg/Leominster	\$812	16.10%	92%	68%
Franklin County	\$812	16.10%	89%	83%
Lawrence	\$812	15.50%	107%	94%
Lowell	\$812	15.00%	108%	93%
New Bedford	\$812	21.60%	88%	83%
Pittsfield	\$812	16.10%	83%	65%
Providence/Fall River	\$812	18.40%	94%	83%
Springfield	\$812	16.10%	92%	77%
Taunton/Mansfield/Norton	\$812	15.70%	107%	102%
Western Worcester County	\$812	16.10%	80%	61%
Worcester	\$812	15.80%	95%	77%
Non-Metropolitan Areas	\$812	15.60%	144%	116%
MASSACHUSETTS Statewide	\$812	16.20%	121%	107%
National	\$726	19.20%	104%	90%

Source: *Priced Out in 2012*, The Technical Assistance Collaborative and the Consortium for Citizens with Disabilities Housing Task Force, based on data from the U.S. Department of HUD and the Social Security Administration.

3. Current Housing Market: Existing Inventory, Recent Trends

This section provides an inventory and assessment of the state's current housing supply. It describes the existing conditions and regulatory framework (zoning, land use regulations, infrastructure, etc.) that influence what gets built and where, and the constraints on new development and redevelopment that prevent the market from responding efficiently to increased demand for housing. It also examines current conditions and how they were shaped by the recent decade of volatility. The housing profile incorporates the most recent sales, rent, construction, absorption, vacancy, mortgage, and foreclosure data available in addition to information from the U.S. Census Bureau (Decennial Census, American Community Survey, American Housing Survey, Building Permit Survey, etc.).

The Challenge of Expanding Affordable Housing Opportunity in Massachusetts

Massachusetts – the Boston metro area in particular – has been a high cost market for both renters and owners for the past thirty years. It entered the 21st century as one of the tightest and most expensive housing markets in the nation, and it continues to hold that distinction today, even after a decade of volatility. The state's housing costs first diverged sharply from national norms during the 1980s (**Figures 3.1 and 3.2**). The gap subsequently shrunk somewhat, but it is edging up again as the region's recovery shows signs of taking hold.

Figure 3.1: Median Value Owner Occupied Homes

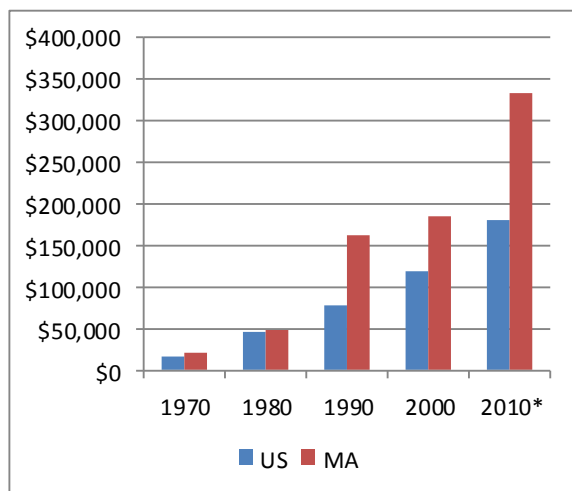
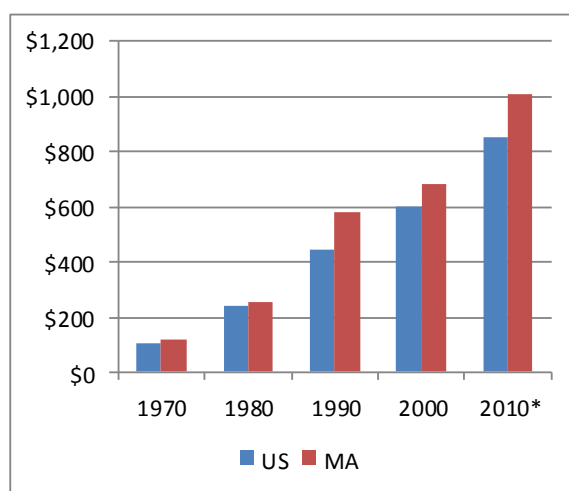


Figure 3.2: Median Gross Monthly Rent



Source for both figures: 1970-2000, Decennial Census; 2010 One Year American Community Survey

The high cost of housing has created affordability problems at every income level. It has pitted the housing haves against the housing have-nots, city against suburb, and community against community for years. Especially in the greater Boston region, high housing costs are a major barrier to business growth and economic expansion. Conventional economic theory would suggest that the market would respond to rising, or shifting, demand by producing additional housing of the type and in the locations where the demand warrants. It is instructive to look at why this did not happen, and why building new housing in the Commonwealth is so costly and challenging.

Some of the challenges are unique to affordable housing, but many apply to housing development generally. They have to do with economic and fiscal considerations, resource allocation, the state's legal and regulatory framework, and public perception and attitudes – and most have been well documented. The *Massachusetts 2010-2014 Consolidated Plan* cited the following barriers:

- The primary obstacle to meeting the housing needs of the Commonwealth's lowest income residents is the growing gap between what it cost to create and maintain decent housing and what very low income households can afford to pay. But because it is so costly and challenging to build any new

housing in Massachusetts – especially in those areas where there is market demand – it is difficult for the private market to create new housing even for moderate and middle income residents.

- High construction costs, including high labor costs; (R.S. Means reports that labor costs are 37 percent higher in Boston than in the 30-city national average, resulting in an overall cost premium of 16 percent over the other cities in the index.)
- High cost and relative scarcity of land available for development and the higher costs associated with building on the marginal sites that are available;
- Limited infrastructure in many communities and little incentive for improving roads, water and sewer systems;
- The elimination of deep federal subsidy programs for low income housing development and their replacement by multiple smaller, shallow subsidies that increase time delays and transaction costs;
- Complex or redundant building codes and the way that they are applied;
- Restrictive local zoning and land use controls and permitting processes;
- Limited planning and organizational capacity at the local level; (The Consolidated Plan noted that half of the Commonwealth's 351 municipalities have fewer than 10,000 residents, and most of these have no professional planning or community development staff.)
- Reluctance of communities to allow new residential development, especially affordable housing, because of concerns related to fiscal impact, property values and "community character;"
- Tendency toward "fiscal zoning" by municipalities that have control over most land use decisions and responsibility for providing and paying for essential public services, including education, largely through the local property tax;
- Limited opportunities for large scale new development at higher densities because existing settlement patterns are well established and few sites are zoned for more intense development than that which already exists in the area (indeed many are zoned for considerably lower density); New development on virgin land usually offers greater flexibility than filling in the remaining parcels in a largely built out area, even if that buildout was done at a relatively low density.

In addition to the challenge of expanding the housing supply and reining in the high costs, Massachusetts faces challenges on several other fronts:

- Its housing inventory is old – the state has the highest percentage of housing units built before 1950 – making it costly to maintain and operate. Because of its age, much of the stock contains lead based paint.
- Winters are severe in New England and high fuel costs are embedded into the rents tenants pay or borne directly by homeowners. Over 40 percent of homeowners heat with costly fuel oil.
- The publicly assisted housing stock, on which so many low income households depend, is aging; much of it is in need of investment to preserve it as an affordable housing resource.
- A growing number of the state's residents require adaptations to their homes and/or supportive services to live independently. Most are housed in the private market; in the case of elders, in homes they have occupied for many years.
- And, as will be discussed in detail in the following chapter, the state's housing markets remain extremely segregated by race and ethnicity.

Existing Conditions

Where housing has been built – and the type of housing that has been built – reflects historic trends in employment; tastes in housing; land use policies; topographic conditions; public investment in infrastructure and transportation networks; and government policies regarding taxes, interest rates and mortgage credit, among other influences.

The Commonwealth's patterns of land use and governance have evolved over nearly four centuries. Its oldest town, Plymouth, was settled in 1620; its newest, East Brookfield, was established 300 years later, in 1920. Massachusetts has one of the oldest housing stocks in the nation. In over half (55%) of all cities and towns, more than 40 percent of the housing dates from before 1960. Land ownership is highly fragmented, and infrastructure in many communities is limited. The number of towns that are wholly or substantially dependent on septic, for example, is nearly unprecedented among urbanized states.⁵⁶

Thirty-eight percent of the state is "urbanized," a higher share than all but New Jersey and Rhode Island, the only two states that surpass it in overall population density. Based on the population density within its urbanized areas, however – and this is the more appropriate measure of the intensity of development – Massachusetts ranks just 29th among the states. Development here is spread out, in long-established patterns, but it is not built out. The City of Boston and a handful of other inner core communities have been developed at very high densities, but most municipalities (79 percent of them, where 43 percent of the population lives) would be classified as low suburban, exurban or rural, with population densities of fewer than 1,500 persons per square mile. In fact, this continuum of urban, suburban and rural densities is characteristic of the New England landscape. It is an important part of state's heritage and, most would agree, one worth saving. Clearly, though, there is ample room for additional development, even within Boston's inner core communities, streetcar suburbs and mature suburban towns.

Spread Out, Not Built Out

Massachusetts communities often say they are "built out" but, in fact, they are only built out to the capacity allowed under their current zoning regulations. The following two tables illustrate just how low density Massachusetts really is. **Table 3.1** summarizes the distribution of the Commonwealth's communities, by region, on a continuum from rural (fewer than 250 persons per square mile) to urban (5,000 or more per square mile). It also shows how many of each region's municipalities lack multifamily zoning, how much of the region's developable land is located in such communities, how many communities are predominantly zoned one acre or more, and how many are wholly or substantially dependent on septic for wastewater disposal. (These two characteristics are usually, though not always, correlated.)

⁵⁶As recently as 1990, the last year in which the U.S. Census Bureau queried about access to public sewers, more than half of all homes in 60 percent of Massachusetts municipalities were on septic. Nearly half had three-quarters of their homes on septic.

Table 3.1: Summary by Region of Selected Land Use Conditions, Restrictions

Region	MA TOTAL	Berkshire	Boston	Cape & Islands	Central	Northeast	Pioneer Valley	Southeast
Total Municipalities	351	32	75	23	62	42	69	48
% w/o Multifamily Zoning	74%	84%	59%	87%	76%	76%	75%	77%
% of Region's Developable Land in Municipalities w/o Multifamily Zoning	83%	84%	79%	98%	82%	82%	82%	88%
% w predominantly 1+ A Zoning	58%	75%	27%	70%	74%	43%	72%	60%
% w 50%+ on Septic (1990)	60%	66%	39%	83%	68%	48%	65%	75%
% Rural, w pop. density < 250/sq. mi.	32%	88%	1%	35%	37%	5%	68%	8%
% Exurban w pop. density bet. 250-499/sq. mi	16%	6%	9%	30%	29%	14%	10%	21%
% Low Suburban, w pop. density bet. 500-1,499/sq. mi.	31%	6%	33%	35%	29%	52%	14%	50%
% Moderate Suburban, w pop. density bet. 1,500-4,999/sq. mi.	15%	0%	35%	0%	5%	21%	7%	21%
% Urban, w pop. density >5,000/sq. mi.	5%	0%	21%	0%	0%	7%	0%	0%

Source: Massachusetts Executive Office of Environmental Affairs/MassGIS Buildout analyses, 2000-2002 (excludes Boston). Density based on 2010 population (Decennial Census); percent of residences on septic based on 1990 Census, the last time such information was collected.

Table 3.2, based on the same density classification system, shows the number of municipalities in each category that consider themselves “built out,” or nearing “build out” under their current zoning. It is based on an analysis undertaken by the Massachusetts Executive Office of Environmental Affairs and MassGIS in 2000-2002. At that time, suburbs developed at a moderate density, like Wellesley and Lexington, considered themselves nearly built out, as did low density suburbs like Lynnfield and Medfield. Even exurban and rural towns like Lincoln, Carlisle, Lenox, and Williamstown considered themselves nearly built out. (The development potential of a number of low density coastal communities – Provincetown, Nantucket and Truro, for example – is limited by their fragile ecology, but even there, carefully sited new development is not precluded.)

Table 3.2: Summary of EOEA 2000-2002 Buildout Analysis by Density Classification of Community

Density Scale*	Pop. Per Sq. Mi.^	# of Communities	# considered at least 70% built out under current zoning**	# considered at least 80% built out under current zoning**	# considered at least 90% built out under current zoning**	Examples of 70-79% built out communities	Examples of 80-89% built out communities	Examples of 90%+ built out communities
Urban/compact	>5,000	19	18	18	13		Belmont, Salem	Quincy, Melrose
Moderate suburban	1,500-4,999	53	44	32	13	Shrewsbury, Marlborough	Milton, Needham	Wellesley, Lexington
Low suburban	500-1,499	107	54	23	3	Millis, Georgetown	Concord, Weston	Medfield, Lynnfield
Exurban	250-499	57	17	8	2	Carlisle, Boxford	Adams, Eastham	Lincoln, Provincetown
Rural	<250	113	13	6	3	Petersham, Lenox	Williamstown, New Salem	Nantucket, Truro

* Often what is shown here as rural (<250 pop per sq mi) and Exurban (250-499 pop per square mile) are combined into a single Rural category and what is Low Suburban here is called Exurban, Moderate Suburban is simply Suburban.

^ Land area

Source: Massachusetts Executive Office of Environmental Affairs/MassGIS Buildout analyses, 2000-2002 (excludes Boston)

Over the years, considerable attention has focused on the disadvantages – and there are many – of the land use practices in low density single zone developing suburbs, but a bigger barrier to expanding affordability and opportunity has been the inability to cite new housing in amenity-rich communities and neighborhoods closer to, and within, Boston. The greatest pent-up housing demand, as well as employment opportunities and infrastructure, exists in areas that are already substantially built up. Massachusetts has an impressive record of adaptive reuse of functionally obsolete structures – historic mills, schools, commercial buildings – but its ability to stimulate redevelopment and infill (“refill”) on a much larger scale, especially in strong suburban markets within the MBTA service area (established suburbs), has been spotty at best.

Land use and zoning policies and practices

There are numerous regulations that affect what gets built in Massachusetts, where, and at what cost. Many of these regulations address legitimate health, safety, environmental, and other public welfare concerns. However, business leaders, planners and environmentalists have all acknowledged that Massachusetts’ regulations governing land use, housing development and environmental protection are failing on many levels. They drive up housing costs, reducing the Commonwealth’s ability to attract and retain workers and limiting its economic competitiveness. At the same time, they have done little to protect priority environmental, agricultural and recreational resources. In fact, many local regulations have exacerbated impacts on the environment. Across Massachusetts, there is ample land on which to build, while still protecting critical open space. Moreover, there are hundreds of functionally obsolete properties and sites that are ripe for redevelopment.

The zoning bylaws or ordinances of each of 351 cities and towns determine the location, size, and type of housing in that community, influencing access to fair housing choice, housing affordability and residential development patterns generally.⁵⁷ They can be changed only by a two-thirds vote of the governing body, either Town Meeting or City Council. There is no requirement that local zoning and other land use regulations be consistent with a municipality’s mandated master plan, or that they accommodate a range of housing types, price or tenure. Since there is no regional governance (counties, for example) or statewide planning, and the thirteen regional planning agencies serve in an advisory capacity only, there is little to compel localities to regulate land use and development in a way that supports regional or statewide goals.⁵⁸

⁵⁷ In Massachusetts zoning regulations are called bylaws in towns, ordinances in cities.

⁵⁸ There are, however, a couple of exceptions to this. The state’s comprehensive permit statute (Chapter 40B), which allows a limited override of local regulations that impede the development of subsidized housing, is the one statewide exception. It is discussed in Chapter 7. In addition, two of the regional planning agencies – the Martha’s Vineyard Commission and the Cape Cod Commission – were granted special land use regulatory powers in the 1970s and 1980s, but they are the only two RPAs with such authority.

Zoning is intended to regulate the use of property for the health, safety and general welfare of the public, but local restrictions that preclude multifamily housing, or restrict it to occupancy by seniors, have long been identified as exclusionary. In 2004, the Pioneer Institute for Public Policy Research concluded that restrictive regulations were also undermining the market's ability to meet housing demand in general. The basis of this conclusion was a comprehensive survey Pioneer undertook of zoning, subdivision, wetlands, and septic regulations in 187 eastern Massachusetts cities and towns.⁵⁹

Most analysts agree that an adequate housing supply can help stabilize prices and enhance affordability, but the Pioneer researchers found that local regulations impeded development of all but single-family homes on large lots, the most expensive type of housing. They identified widespread barriers to multifamily housing, town homes, single family houses on small lots, and accessory apartments in owner-occupied homes. In those instances where smaller lots or multi-family buildings were allowed, the new housing was often restricted to occupants 55 years or older. Relatively few of the municipalities in the study prohibited multi-family housing for families outright, the authors noted, but most regulated its development so tightly that building such housing became infeasible.⁶⁰

Among the many land use practices about which Pioneer queried the cities and towns in its survey was whether multifamily housing was allowed by right in any part of the municipality; whether multifamily housing was allowed by special permit (including through overlays or cluster zoning); and whether attached single family houses (townhouses, 3+ units) were listed as an allowed use (by right or special permit). **Table 3.3** summarizes their findings.

Table 3.3: Limited Multifamily Zoning in Massachusetts Municipalities

REGION	Number of Communities in Region	Number of Communities Included in Pioneer Study	Multifamily by Right	Multifamily by Special Permit	Townhouses (3+ units) by Right or Special Permit
Berkshire	32	0			
Boston	75	73	39	69	57
Cape & Islands	23	0			
Central	62	33	9	30	21
Northeast	42	42	16	42	32
Pioneer Valley	69	0			
Southeast	48	37	14	30	37
MASSACHUSETTS	351	187	78	171	147

Source: * Pioneer Institute Housing Regulation Database, <http://www.masshousingregulations.com>

^1990 Decennial Census, **2005 MassGIS

Other research supports the Pioneer findings. A 2005 study commissioned by the nonprofit Citizens' Housing and Planning Association (CHAPA) found that over 60 percent of the communities in eastern

⁵⁹ Housing and Land Use Policy in Massachusetts: Reforms for Affordability, Sustainability, and Superior Design by Amy Dain, Pioneer Institute for Public Policy Research, 2007

⁶⁰Ibid.

Massachusetts had employed a variety of zoning and regulatory techniques to permit age restricted housing in locations, or at densities, not otherwise allowed. As a result, there was a proliferation of age restricted development, but the production of housing for younger families – unless permitted under the state’s affordable housing statute, MGL Chapter 40B – had ground to a halt. The report concluded that while the active adult housing market was driven by favorable demographics and the enthusiastic support of the homebuilding industry, the *age restricted* active adult market was driven by local land use policies and fiscal considerations.⁶¹

Another analysis, based on the MassGIS database revealed that multifamily housing accounted for less than 5 percent of the residentially developed land in 18 of 32 municipalities in the Route 128 region and 14 of 23 municipalities the 495/Metrowest region, the two areas that experienced the greatest employment growth – more than 100,000 new jobs – between 1995 and 2008.⁶²

These findings raise serious civil rights concerns. Spatial segregation not only reflects the existing social structure, it is a mechanism to enforce that structure. While the forces that contribute to spatial segregation by race and ethnicity are complex and varied, a number of studies have concluded that low density only zoning that reduces the number of rental units, also limits the number of Black and Latino residents. By contrast, new production in general, new rental and multifamily production, and new affordable rental production have been shown to be market conditions that promote inclusion of Blacks and Latinos. Chapter 4 discusses residential segregation and integration greater detail.

High Construction Cost

While development restrictions and land use regulations are problematic, they are not the only existing condition that poses a challenge to expanding the supply of moderately priced housing in Massachusetts. The Commonwealth has among the highest construction costs in the nation. Labor, materials and total construction costs are tracked using the R.S. Means Construction Cost Index (CCI). This index facilitates cost comparisons from city to city, region to region, and time period to time period. The CCI is published annually and presents the average construction cost indexes for 318 major U.S. and Canadian cities. The index is presented as the percentage ratio of the cost on January 1 of each year to the national average cost of the same item (or service) on January 1, 1993. The CCI also calculates a 30 City average, considered the national average, based on 30 major U.S. cities, including Boston.

Figure 3.3 and **Table 3.4** illustrate just how big the gap is between Massachusetts and other parts of the country. Construction costs (exclusive of land and soft costs) were more than 18 percent higher in Boston in 2012 than in the other cities included in the R.S. Means national 30-city average. Costs also exceeded the national norms in every other Massachusetts city included in the CCI (Brockton, Fall River, Lawrence, Lowell, New Bedford, Pittsfield, Springfield, and Worcester). Construction costs in Massachusetts diverged sharply from the rest of the nation in the 1980s, just as home prices and rents had,

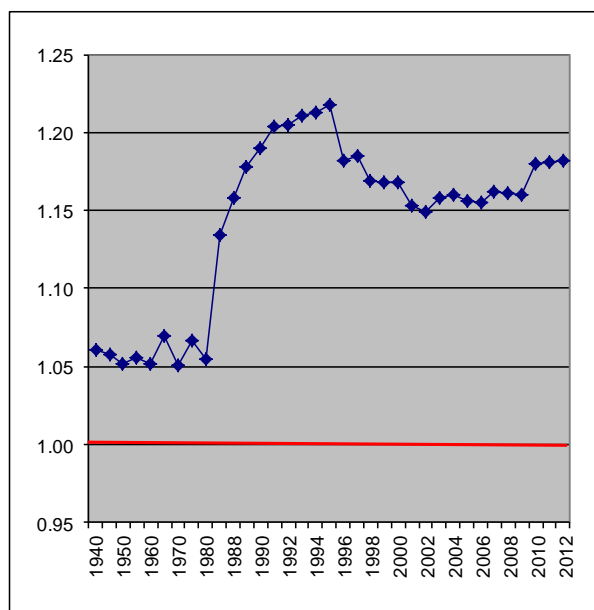
⁶¹ Age Restricted Active Adult Housing in Massachusetts: A Review of the Factors Fueling Its Explosive Growth and the Public Policy Issues It Raises, Heudorfer, Bonnie 2005

⁶²Heudorfer, Bonnie, unpublished 2010 examination of land use in areas of job growth.

and they have remained elevated for more than 30 years. This trend is depicted in Figure 3.3. (From 1940-1980, Massachusetts' cost premium averaged just under 6 percent.)

It is the installation costs (labor plus equipment rental) that drive up overall construction costs in Boston and throughout Massachusetts, not materials. There is significantly less variation in the cost of building materials from one part of the country to another, as Table 3.4 illustrates. Of the 318 areas tracked for the R.S. Means index, only New York City, Long Island and San Francisco have higher costs (labor and total) than Boston does. Massachusetts' other major cities and metro areas, though less expensive than Boston, are also among the most expensive in the nation. The construction cost index in the Commonwealth's lowest cost cities – Pittsfield and Springfield – is comparable to those of San Diego and Seattle; Barnstable and Worcester are on a par with Minneapolis; and Lawrence rivals Philadelphia's construction cost index. By comparison, costs in neighboring Nashua NH are considerable lower. Not only are Nashua's labor costs lower than Boston's, they are lower than those in Lawrence and Lowell, just across the border.

Figure 3.3: R.S. Means Construction Cost Index: Boston vs. National 30 City Average **Table 3.4: Boston Construction Costs v Other Cities: Materials, Installation, Total**



Source: R.S. Means Construction Cost Index, January 2012

	TOTAL CONSTRUCT- ION COST v BOSTON	Materials Costs v Boston	Installation (Labor) Costs v Boston
2012			
Austin, TX	0.67	0.94	0.42
Raleigh, NC	0.68	0.97	0.40
Charlotte, NC	0.68	0.97	0.41
Phoenix, AZ	0.75	0.96	0.55
Orlando, FL	0.75	1.00	0.52
Tampa, FL	0.78	0.98	0.59
Denver, CO	0.79	1.00	0.61
Nashua, NH	0.82	0.98	0.67
Washington, DC	0.83	1.00	0.67
Portland, OR	0.84	0.96	0.72
San Diego, CA	0.87	0.97	0.77
Seattle, WA	0.88	1.01	0.76
Minneapolis, MN	0.94	0.99	0.89
Philadelphia, PA	0.97	0.98	0.96
Chicago, IL	0.99	0.97	1.00
Boston, MA	1.00	1.00	1.00
San Francisco, CA	1.04	1.05	1.02
New York, NY	1.12	1.03	1.20

Housing Supply

Overview

There are over 2.8 million housing units in the Massachusetts (2.5 million occupied units). More than three quarters (78.3%) of these are in 1-4 unit structures. A relatively high share of residents rents (37.9%), most (54.3%) in 1-4 unit structures. The costs to rent or own a home are high, and they are only

partially mitigated by the state's relatively high incomes and the substantial housing assistance it provides. The housing stock is old and requires ongoing investment and maintenance to keep it safe and functional. Winters are long and cold, and high heating bills add to the already burdensome housing costs. Massachusetts is a slow growth state and new housing units are permitted at only about half percent of the national rate.⁶³ In spite of its comparatively slow rate of growth, there have been some noteworthy shifts in the housing supply in recent years.

⁶³ Source: U.S. Census Bureau Building Permits Surveys (2000-2011) and Decennial Census 2000. Rate of permitting is calculated as number of units authorized by building permits annually divided by total number of housing units existing in 2000*1000.

Inset 3.1: A Snapshot of Massachusetts Housing and Households Compared to Other States

The 2011 1-Year American Community Survey provides the following snapshot of the Commonwealth's housing inventory compared to that of the other 49 states.

Massachusetts has the highest percentage of housing units that were built before 1940, and only RI, CT and NY have a smaller share of units built since 2000. Despite its age, the housing stock is in relatively good condition. Fewer than 0.5 percent of homes lack complete plumbing while fewer than 1 percent lack complete kitchens. The state has the third lowest share of detached single family homes, but the second highest share of 2-4s, after RI. Only CT and HI have a lower share of mobile homes.

A relatively high share of residents rent (higher than all but six other states) and a relatively high share of all residents (owners as well as renters) have lived in their homes for more than 40 years. The share of renters living in single family homes (14.8%) is lower than all other states except NY, while the share renting in 2-4 family homes (39.6%) is higher than all other states but RI. The New England states have the highest share of homes that use fuel oil for heating. Just 12.7 percent of households do not own an auto, and more than half own 2 or 3 vehicles. Only NY is the only state with a higher share of car-less households. Owner households in Massachusetts have a comparatively large average household size (ranking #14, with 2.69 persons), while renter households, with an average of 2.21 persons, are comparatively small (ranking #43).

Massachusetts has the third lowest homeowner vacancy rate, at 1.4 percent, while its 4.8 percent rental vacancy rate ranks as the fifth lowest. Among the 48 continental states, only CA has a higher median home value, and no other state has a smaller share of homes valued at under \$150,000. Only CA, MD, NY, NJ and VA (in continental US) have a higher share of rental units costing more than \$1,500 a month. With a median gross rent of \$1,034, MA ranks #6 in continental US, after CA, MD, NJ, VA, and NY. It ranks #18, however, in share of renters paying more than 35 percent of income. Only CT, CA and NJ have higher median housing costs for owners with a mortgage than Massachusetts' \$2,042/month. Among homeowners with no mortgage outstanding, NJ, CT, NH, and NY rank higher than Massachusetts' \$672/month. The Commonwealth's rank by share of owners paying more than 35 percent of income for housing costs is #14 for mortgaged homeowners and #6 for homeowners with no mortgage.

Net Increase in Housing Units Exceeded Growth in Households Between 2000 and 2010

Between 2000 and 2010, the Commonwealth's total housing inventory increased by 7 percent, outpacing the 3 percent increase in population and the 4 percent increase in number of households. This was in marked contrast to the prior decade when a 6 percent growth in housing supply lagged the 9 percent increase households and 10 percent increase in employment, driving vacancy rates down, rents up, and contributing to the rising price of existing homes. (Employment in Massachusetts dropped by nearly 4 percent between 2000 and 2010, a decade that began and ended in recession.)

Just under 91 percent of all housing units were occupied at the time of the 2010 Census, down from the record high 93.2 percent reported in 2000. There was an increase in both owner occupied units (up 5.2%) and renter occupied units (up 2.6%) over the course of the decade, with the number of homeowners growing during the housing boom of the first half of the decade at the expense of renter households, and the opposite trend occurring in the years since.⁶⁴ The most dramatic increase, however, was in vacant units. The number of vacant units more than doubled, increasing by over 48,000 units between 2000 and 2010. The number available for rent or sale, while double what it was in 2000 when the Massachusetts housing market was the tightest in the country, remains intractably low: just 3.3 percent in 2010, up from 1.7 percent a decade earlier. **Table 3.5** documents these shifts.

Little is known about the 44,000+ units classified as "other vacant," but they likely include units unsold when the housing market collapsed and units that are working their way through the foreclosure process. This shadow inventory creates considerable uncertainty in the marketplace. These units could prove to be an important resource for meeting the Commonwealth's future housing needs. On the other hand, they could become a further drag on the recovery. Their ultimate impact will depend on how they are managed and disposed of. **Figure 3.4** provides greater detail on the growing number of vacant units.

⁶⁴ By 2007, the 1-year ACS estimated that the number of renter households had dropped by 8.6 percent since 2000 while the number of homeowners had increased by 5.7 percent. Between 2007 and 2011, the same source estimated that the number of renter households rose by 12.1 percent while the number of owner households dropped by 1.3 percent.

Table 3.5: Massachusetts' 2010 Housing Supply and Changes Between 2000 and 2010

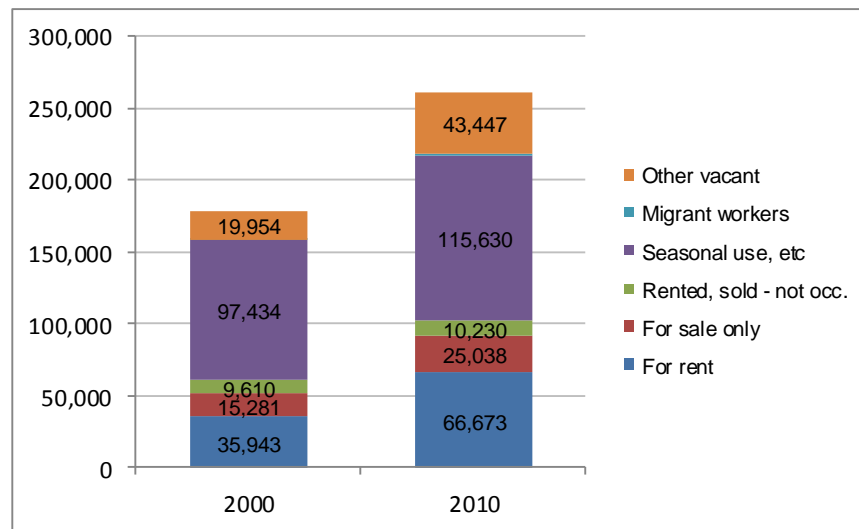
Benchmarks Region	2010 Housing Inventory						
	Total:	Occupied	Owner occupied	Renter occupied	Total vacant units	Vacant for sale or rent	Other vacant
Berkshire	68,508	56,091	37,770	18,321	12,417	2,564	1,701
Boston	1,120,330	1,055,941	580,673	475,268	64,389	36,047	15,259
Cape & Islands	189,087	107,352	81,485	25,867	81,735	5,809	2,271
Central	324,632	300,686	199,212	101,474	23,946	12,328	6,663
Northeast	385,142	361,566	244,259	117,307	23,576	11,502	4,862
Pioneer Valley	288,536	269,091	171,707	97,384	19,445	8,467	5,581
Southeast	432,019	396,348	272,052	124,296	35,671	14,994	7,110
MASSACHUSETTS	2,808,254	2,547,075	1,587,158	959,917	261,179	91,711	43,447
	100.0%	90.7%	56.5%	34.2%	9.3%	3.3%	1.5%
Benchmarks Region	# Change 2000 to 2010						
Berkshire	2,207	85	280	-195	2,122	255	270
Boston	66,723	37,056	24,047	13,009	29,667	21,110	4,937
Cape & Islands	17,958	2,410	787	1,623	15,548	2,839	383
Central	28,761	19,150	18,396	754	9,611	6,371	2,391
Northeast	27,567	17,129	11,837	5,292	10,438	6,699	2,062
Pioneer Valley	12,077	8,346	7,095	1,251	3,731	2,109	1,238
Southeast	30,972	19,319	16,664	2,655	11,653	7,293	1,975
MASSACHUSETTS	186,265	103,495	79,106	24,389	82,770	46,676	13,256
	100.0%	55.6%	42.5%	13.1%	44.4%	25.1%	7.1%
Benchmarks Region	%Change 2000 to 2010						
Berkshire	3.3%	0.2%	0.7%	-1.1%	20.6%	11.0%	18.9%
Boston	6.3%	3.6%	4.3%	2.8%	85.4%	141.3%	47.8%
Cape & Islands	10.5%	2.3%	1.0%	6.7%	23.5%	95.6%	20.3%
Central	9.7%	6.8%	10.2%	0.7%	67.0%	106.9%	56.0%
Northeast	7.7%	5.0%	5.1%	4.7%	79.4%	139.5%	73.6%
Pioneer Valley	4.4%	3.2%	4.3%	1.3%	23.7%	33.2%	28.5%
Southeast	7.7%	5.1%	6.5%	2.2%	48.5%	94.7%	38.5%
MASSACHUSETTS	7.1%	4.2%	5.2%	2.6%	46.4%	103.6%	43.9%

* Other vacant *excludes* units held for seasonal or occasional use of for migrant workers

^ Vacancy rate is units for rent or sale/vacant units for rent or sale plus all occupied units.

Source: Decennial Census 2000 and 2010, SF1

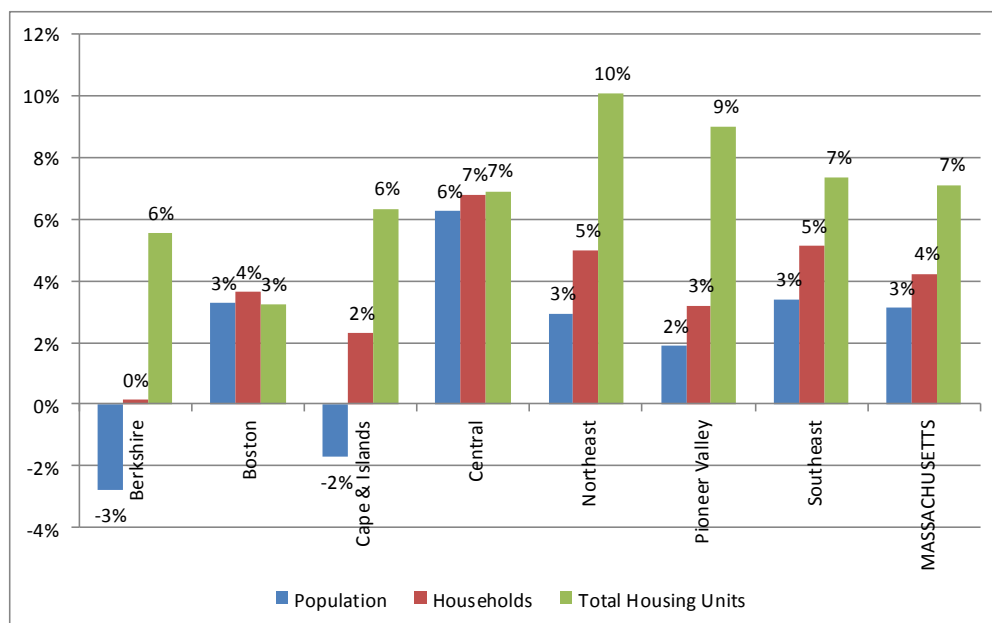
Figure 3.4: Vacant Units by Type, 2000 and 2010



Source: Decennial Census 2000 and 2010

While the growth in housing supply during the 2000s exceeded household growth, it did not correspond as closely as one might expect of a well-functioning market. As **Figure 3.5** illustrates, the net change in the housing supply exceeded household growth in most regions and approximated household growth in the Central region. In greater Boston, however – the state’s most populous region, with the strongest and costliest housing markets – the number of households grew at a faster rate than the housing supply.

Figure 3.5: Changes in Population, Households and Housing Units by Region, 2000 and 2010



Source: Decennial Census 2000 and 2010

The Type of Housing is Changing

The type of housing is changing as the Commonwealth loses older, smaller multifamily units. **Table 3.6** documents the net loss of nearly 17,000 units in 2-4 family structures, an affordable housing staple in many communities. The net gain between 2000 and 2010 was mostly in single family homes – both townhouse and detached single family – and large multi-family properties, as **Table 3.7** shows.

Table 3.6: Housing Change by Type of Structure and Tenure, 2000-2011

Massachusetts Total	Total	1, detached	1, attached	2 to 4 units	5 to 19 units	20 to 49 units	50+ units	Mobile home, other
Total 2011	2,532,067	1,318,485	128,262	540,344	259,821	106,933	157,555	20,667
<i>Stock type's share of total</i>	100.0%	52.1%	5.1%	21.3%	10.3%	4.2%	6.2%	0.8%
Owner	1,573,279	1,221,024	84,126	160,916	44,571	20,263	24,917	17,462
	100.0%	77.6%	5.3%	10.2%	2.8%	1.3%	1.6%	1.1%
Renter	958,788	97,461	44,136	379,428	215,250	86,670	132,638	3,205
	100.0%	10.2%	4.6%	39.6%	22.5%	9.0%	13.8%	0.3%
Total 2000	2,443,580	1,274,187	97,263	565,246	252,441	97,058	134,915	22,470
<i>Stock type's share of total</i>	100.0%	52.1%	4.0%	23.1%	10.3%	4.0%	5.5%	0.9%
Owner	1,508,248	1,184,458	61,913	172,712	35,956	16,049	17,951	19,209
	100.0%	78.5%	4.1%	11.5%	2.4%	1.1%	1.2%	1.3%
Renter	935,332	89,729	35,350	392,534	216,485	81,009	116,964	3,261
	100.0%	9.6%	3.8%	42.0%	23.1%	8.7%	12.5%	0.3%
# Change 2000-2011	88,487	44,298	30,999	-24,902	7,380	9,875	22,640	-1,803
<i>Stock type's share of gain or loss*</i>		38.5%	26.9%	93.2%	6.4%	8.6%	19.7%	6.8%
Owner	65,031	36,566	22,213	-11,796	8,615	4,214	6,966	-1,747
Renter	23,456	7,732	8,786	-13,106	-1,235	5,661	15,674	-56
% Change 2000-2011	3.6%	3.5%	31.9%	-4.4%	2.9%	10.2%	16.8%	-8.0%
Owner	4.3%	3.1%	35.9%	-6.8%	24.0%	26.3%	38.8%	-9.1%
Renter	2.5%	8.6%	24.9%	-3.3%	-0.6%	7.0%	13.4%	-1.7%

*Net change resulting from gain of 115,192 units in single family structures and structures of 5-50+ units, offset by loss of 26,705 units in 2-4 unit structures and mobile homes and other (boats, RVs etc.)

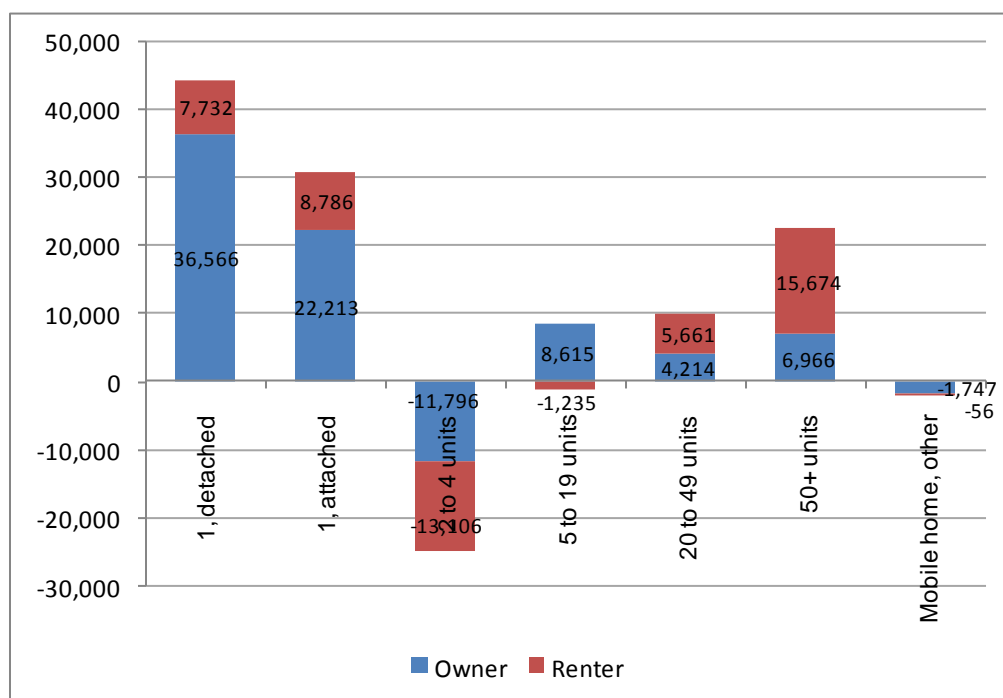
Source: 2000 decennial Census SF3 and 2011 One -Year American Community Survey. Beginning in 2010, the Decennial Census no stopped collecting these types of data; they are included instead in the annual American Community Survey.

Table 3.7: Gains in Single Family Homes and Large Multifamily Properties

Massachusetts Total	1, detached	1, attached	2 to 4 units	5 to 19 units	20 to 49 units	50+ units	Mobile home, other
<i>Stock type's share of total - 2011</i>	52.1%	5.1%	23.1%	10.3%	4.2%	6.2%	0.8%
<i>Stock type's share of total in 2000</i>	52.1%	4.0%	23.1%	10.3%	4.0%	5.5%	0.9%
<i>Stock type's share of gain, 2000 - 2011</i>	38.5%	26.9%	NA	6.4%	8.6%	19.7%	NA

Source: 2000 decennial Census SF3 and 2011 One -Year American Community Survey

Figure 3.8: Change in Tenure by Units in Structure, 2000 to 2011



Source: 2000 decennial Census SF3 and 2011 One -Year American Community Survey

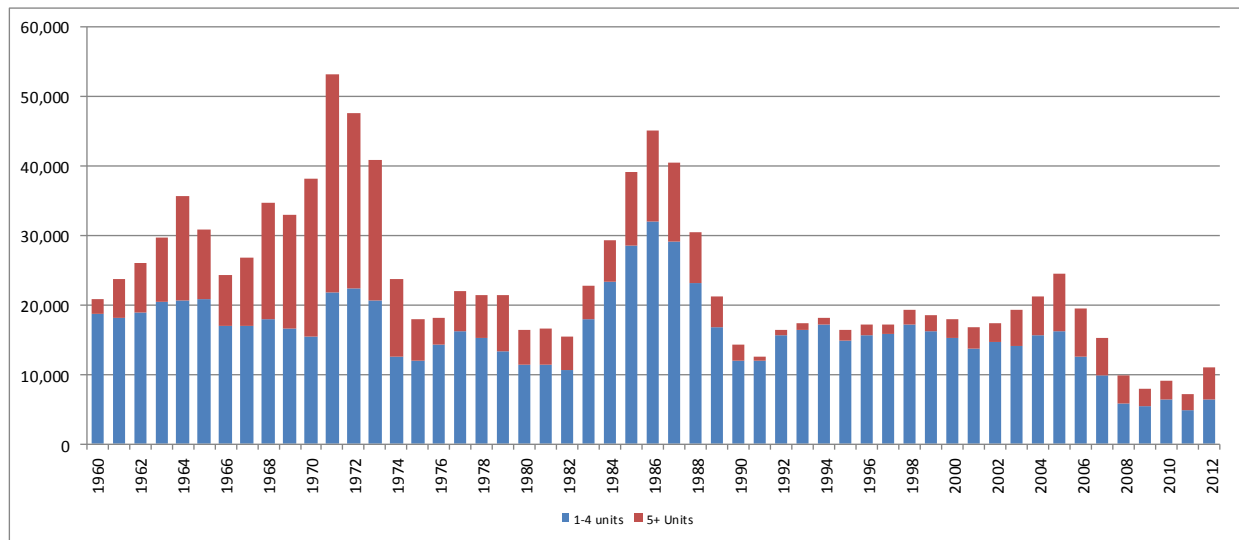
The changes in the housing supply described above and depicted in the preceding figures and tables are net changes: the loss of older units through demolition or conversion to non-residential uses offset by the addition of units gained through new construction, adaptive reuse, the conversion of larger dwellings to smaller units, etc. A better sense of where the market is headed comes from looking at the housing development that occurred between 2000 and 2010, the post-recession housing development and the production pipeline.

Housing Production

Historical Overview

Since 1960, Massachusetts has authorized, on average, about 23,300 new housing units per year. Over the most recent 25-year time horizon, however, that number is just 16,700. Production has ranged from more than 53,000 in 1971 to fewer than 7,300 units in 2011 in the aftermath of the recent Great Recession. **Figure 3.7**, which tracks the number of housing units authorized by building permits since 1960 documents the substantial year-to-year variation in construction activity. Smoothing out the annual peaks and valleys, the big drop-off in new construction occurred post-1990. The number of units permitted annually between 1960 and 1989 was nearly 29,000; since 1990, it has averaged fewer than 16,000.

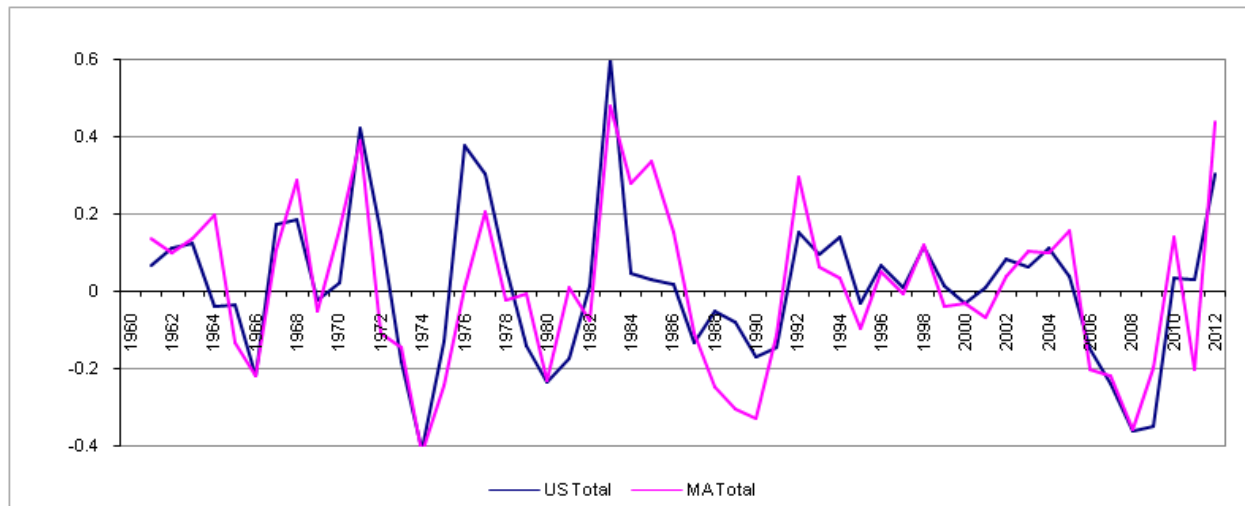
Figure 3.7: Housing Units Permitted by Building Permits in Massachusetts, 1960 – 2012



Source: U.S. Census Bureau

The state's housing production, though modest by national standards, closely tracks national trends in terms of year-to-year production swings, underscoring just how much the construction industry is driven by national economic forces and policies (**Figure 3.8**).

Figure 3:8 Year Over Year Change in Housing Units Permitted: MA v US, 1960-2012



Source: U.S. Census Bureau

New construction fell sharply during the 1990 recession that hit New England much harder than the rest of the nation, and it never fully recovered when the region's economic fortunes improved in the middle of that decade. Over the course of the 1990s, Massachusetts produced little more than half of the housing units it needed. The drop off in multifamily production – buildings with 5 or more units, the majority of

which are rentals – was especially pronounced in the Boston metro area. Production there averaged just over 700 units a year for 7 years between 1990 and 1997 and contributed to the steep rent increases and plummeting vacancy rates. Multi-family production began to recover after 1998, when the major national apartment developers entered the Massachusetts market.

Housing Production During the 2000s

Multifamily production continued to climb through the first half of the 2000s, as a booming housing market boosted condominium development. Condo sales increased by more than 73 percent statewide between 2000 and 2005.

The single family market, on the other hand, saw relatively limited new production, even as the market began to overheat. As a result, the number of single family sales increased by just over 9 percent during the same period. Overall production (based on units permitted by building permits) averaged more than 21,000 units a year for four years (2003-2006), peaking in 2005. While far from the construction boom that many states were experiencing, this represented the highest level of construction activity in Massachusetts in fifteen years.

The principal production drivers were high end rental apartments and condominiums in Boston and other inner core cities; suburban development permitted under Chapter 40B, the state law that allows a limited override of local zoning for developments that include affordable housing units; age restricted housing, including active adult developments and independent living apartments; and single family homes built at medium and low densities in the developing suburbs or on infill lots (including teardowns) in the mature suburbs. There were substantial gains as the result of the adaptive reuse of non-residential properties, units are not reflected in the Census Bureau tally of new units authorized by building permits. Within the MBTA service area, a number of new developments were located in transit accessible locations.

About 40,000 new market rate and mixed income rental apartments have been created statewide since 2000. Some 4,000 of these were created through adaptive reuse of non-residential properties (state hospitals, schools, mills, etc.), or a combination of adaptive reuse and new construction.⁶⁵ Units have been created through adaptive reuse in cities, suburbs and rural communities across Massachusetts. Thirty-two percent of the newly created units were developed in cities that have accounted for much of the new rental housing production historically. Most of these were already at the “10 percent affordable” threshold at the beginning of the decade: Boston, Cambridge, Chelsea, Malden, Lawrence, Lowell, New Bedford, Quincy, Revere, Salem, Somerville, and Worcester.

Of the 62 percent of units that were not created in the 10 percent cities or through adaptive reuse elsewhere (roughly 25,000 units), 59 percent were permitted under the comprehensive permit provisions of Chapter 40B. Three percent were approved under Chapter 40R, the state’s new smart growth zoning law. The remaining 39 percent were approved as of right or by special permit or through inclusionary zoning, rezoning or other public action (e.g. sale of public land). Most of those approved as 40Rs or

⁶⁵ Excluded are developments entirely restricted to low income occupancy or housing specifically intended for populations with special needs or requirements. Also excluded are several thousand units that were built as condominiums but are now being marketed as rentals.

under these other zoning mechanisms were originally proposed – and, in many cases, approved – as 40Bs. (See Figures 3.9 and 3.10.)

Figure 3.9: New Rental Development, 2001-2012

(Market Rate and Mixed Income)

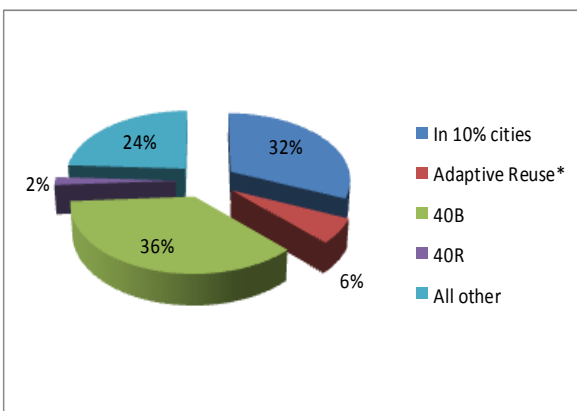
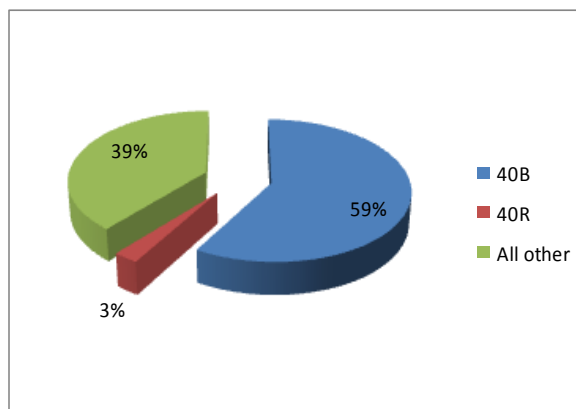


Figure 3.10: New Rental Development,

(excluding adaptive reuse, development in cities over 10% threshold)



Source: Author's analysis of data from Census Building Permit Survey, municipal planning departments, 40B permits, 40R status reports, etc.

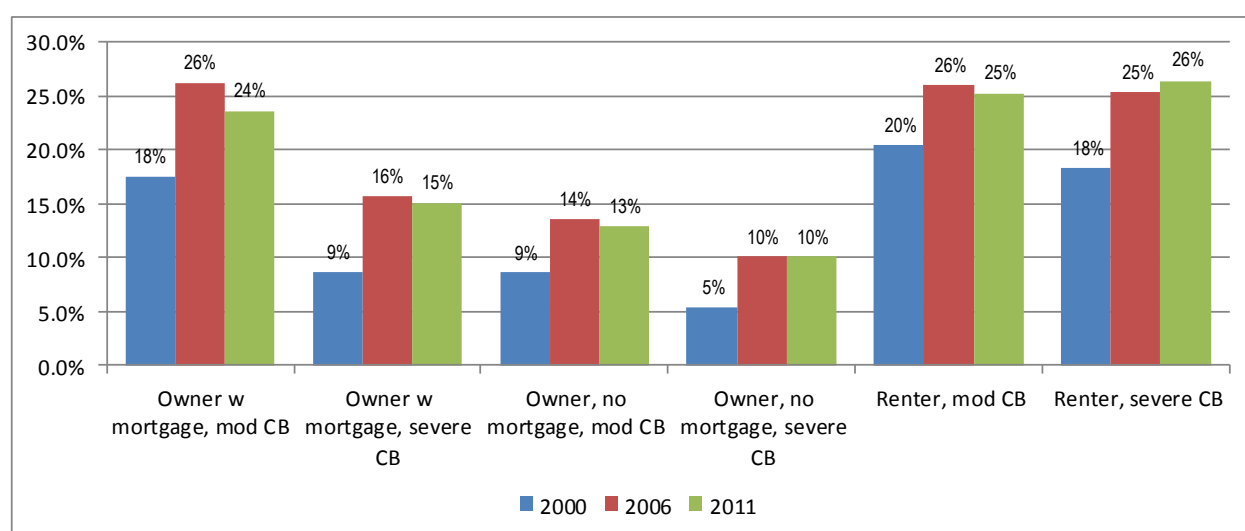
The housing recovery of the mid-2000s, modest though it was compared to historic production levels, was short-lived. By 2008, the economic picture was the mirror image of what it had been a decade earlier. There were over 3 percent fewer jobs, wages had stagnated, and the 7 percent net increase in housing units since the beginning of the decade outpaced the 4 percent gain in households. The Great Recession brought most new construction to a halt. Permitting dropped to its lowest level in more than 50 years in 2009, and remained depressed through most of 2011. Multi-family production in the Boston area has fared modestly better than single family this time around, and its prognosis is brighter.

Housing Costs

Home sales and prices skyrocketed during the first half of the 2000 decade, fueled by easy credit and lax oversight, but when the housing market collapsed, it triggered the longest and most severe recession since the Great Depression. In 2006, as the housing market cooled, foreclosures began to mount. Economic conditions quickly deteriorated and by 2007 Massachusetts, like the rest of the nation, was again headed into recession. The National Bureau of Economic Research (NBER) dates the recession from December 2007 through June 2009, but the combined impact of subprime lending, high unemployment, falling home values and municipal revenues, and concentrated foreclosures has left many residents and neighborhoods still struggling nearly four years after the recession officially ended.

Cost burdens increased for both renters and owners. Renters in large numbers – including low income renters, enabled by the easy and unsustainable credit – became home owners, incurring high cost burdens. Continuing to rent were the poorest tenants, those most likely to have high cost burdens and/or other housing problems if they were not receiving rental assistance or living in public or subsidized housing. The years immediately following the collapse of the housing bubble were the worst, as measured by the drop in incomes, homeownership and household formation rates and the rise in foreclosures, unemployment, housing cost burdens and homelessness. There has been a modest improvement in cost burdens relative to income since 2006, as **Figure 3.11** illustrates, but the number and share of households burdened by high housing costs is significantly higher now than in 2000.

Figure 3.11: Cost Burdens by Tenure and Mortgage Status: 2000, 2006 and 2011



Source: 2000 Decennial Census SF3 and 2006 and 2011 One-Year American Community Survey

The number of severely cost burdened renters rose by nearly 50 percent over the course of the decade while the number of mortgaged homeowners with severe cost burdens increased by more than 132 percent. Even among owners with no mortgage debt outstanding (typically seniors), the number with severe cost burdens jumped by 140 percent. While this group is still less likely to experience high housing cost burdens than either renters or mortgaged homeowners, they experienced the steepest increase in cost burden relative to earnings as taxes, utilities and insurance consumed a greater share of their fixed, or declining, incomes.

Rental Market

Thirty-eight percent of Massachusetts households rent their homes. The rental stock is among the nation's oldest and – since the mid-1980s – most expensive. More than 54 percent of all tenants live in one-to-four family structures. The state's sizable inventory of two and three family homes has been a

mainstay of its affordable rental inventory for nearly a century, particularly in the cities. Increasingly, this inventory is being eroded on two fronts: housing price inflation and conversion to higher income occupancy at one end and the deterioration and demolition of aging, functionally obsolete stock at the other.

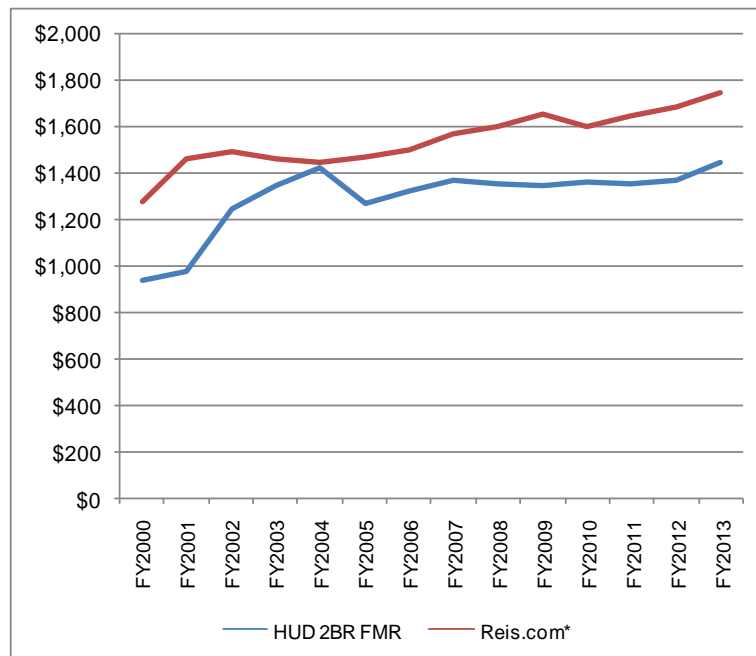
More than 40 percent of the remaining renters live in public or subsidized housing. An additional 60,000+ receive federal or state housing vouchers help them secure rental housing in the private market.⁶⁶ The special challenges and uncertainties many of these residents face due to the vagaries of federal and state funding, and publicly assisted housing regulations is addressed in Chapter 7. This section focuses on the conditions and market forces that influence private rental developments.

Data from several sources were compiled to evaluate market conditions across regions. Reis.com, a national source of commercial real estate trends and analytics, provided rent and vacancy data for the Greater Boston, Worcester and Springfield rental markets. Reis' quarterly surveys of professionally managed apartment complexes of 40 or more units provide a highly credible overview of market trends over time, but data for the Worcester and Springfield markets is available only from 2005 forward. The Reis data do not distinguish between units of differing size (bedroom count).

HUD fair market rents (FMRs) provide another gauge of rent levels over time. HUD calculates its FMRs based on regional surveys of recent movers. The HUD FMRs reflect a broader range of housing options including one to four family dwellings, and have the advantage of estimating rents by bedroom size. The drawback to the HUD data is that when the market is moving sharply up or down, they tend to lag – and then lurch ahead. (See **Figure 3.12.**) Currently, the two indicators are moving in sync.

⁶⁶ This number excludes tenant based vouchers that are used in subsidized developments.

3.12: HUD 2-BR FMR versus Reis.com Median Rent: Greater Boston



Source: Reis.com, HUD

The Greater Boston Rental Market

The Greater Boston rental market – generally defined by the industry as Suffolk, Middlesex, Norfolk, Essex, and Plymouth Counties – is the nation’s seventh largest apartment market. During the late 1990s and into the 2000s, rents rose sharply and vacancies plummeted when new production failed to meet the demand generated by an expanding economy. By 2000, vacancy rates had fallen below 3 percent, the lowest in the nation, and the region’s already high rents increased by nearly 35 percent over a three year period. Rents began to stabilize, albeit at near record highs, after the economy slipped into recession in 2001, and by 2002, vacancy rates returned to what, for Boston, was normal a normal 5-6 percent. Though they remained among the highest in the nation, metro Boston rents increased by less than one percent between 2001 and 2005, during which time home prices climbed by 56 percent. Only after home prices began to fall in late 2005, did rents again began to climb. Reis reports that Boston area rents increased by just over 2 percent per year between 2005 and 2010, while vacancies remained in the 5 to 5.5 percent range.

In the past two years, however, the market has tightened. The number of renter households is increasing, vacancy rates are declining, concessions are disappearing, and rents are at an all-time high. A number of factors have contributed to the increase in renter households: families moving from homeownership to rental due to foreclosures; a decrease in young families moving from rental to homeownership; an increase in the student population; an overall increase in young adults born between 1981 and 1992 (and aged 18-29 in 2010); an improving economy; and a limited supply of new units coming on the market, reflecting the drop in starts between 2009 to 2011.

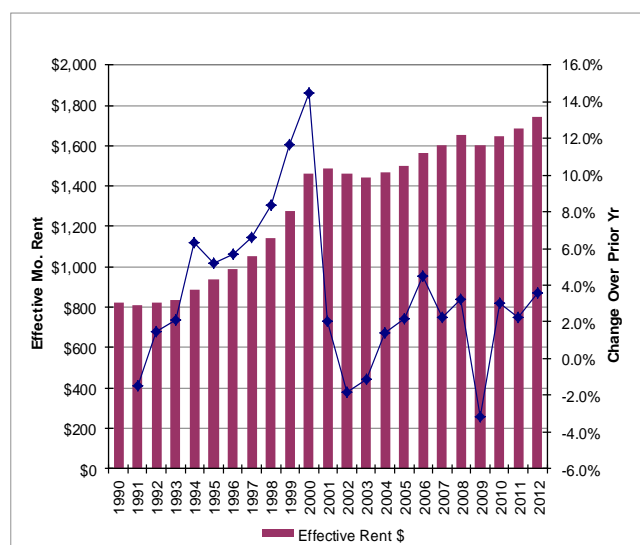
Reis pegged the average asking rent at \$1,833 for the first quarter of 2013 and the effective rent at \$1,755, both new record highs. While the relative health of the rental market has recently spurred increased production, the rents required to support the new construction remain out of reach for the majority of the region's existing renters. Renters, who earn on average less than 41 percent of their home owning counterparts have seen their incomes drop by more than 15 percent since 2000.

Figures 3.13 and 3.14 document the movement of rent in the Boston market since 1990.

Figure 3.13 shows the average effective rent and year over year change, while **Figure 3.14** shows the difference between asking and effective rent. Effective rents take into account any concessions provided by the landlord, such as a month's free rent. In tight markets asking rents and effective rents are typically the same. When the market is softer, as it was in 2002 and 2003, or when substantial new inventory is being delivered as was the case in the middle of the decade, there may be about a five percent differential between asking and effective rents.

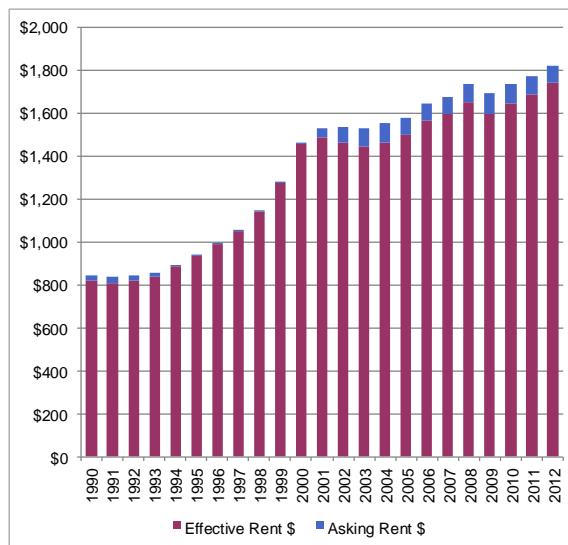
Greater Boston continues to exhibit good apartment fundamentals. Among its attractions for apartment developers are a well-balanced economy and large college, graduate student, and young professional populations that turn over regularly. This turnover enables landlords to reset rents frequently. In addition, high home purchase prices and barriers to entry suggest that the potential for long-term appreciation will continue. There remains a substantial inventory in the pipeline, most of it high-end product, but it is notoriously difficult to bring projects to fruition, even under advantageous economic conditions.

3.13: Greater Boston Rents and Yr Over Yr Change



Source: Reis.com

3.14: Asking v Effective Rents in Greater Boston



Source: Reis.com

The Worcester and Springfield Rental Markets

Rents have been rising and vacancy rates have been dropping in the Worcester and Springfield markets as well. From 2007 to 2010, when asking rents in the Boston market increased by 2.8 percent, Worcester

rents rose by just 1.3 percent. During the same period, Springfield rents jumped by 5.6 percent.⁶⁷ In the three years since, the increases have been 8.1 percent (Boston), 9.4 percent (Worcester) and 8.5 percent (Springfield).⁶⁸

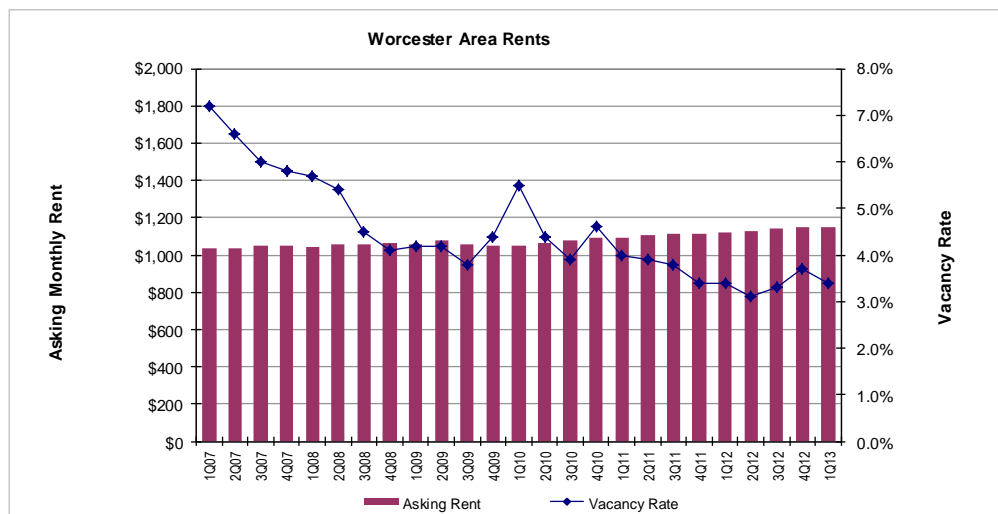
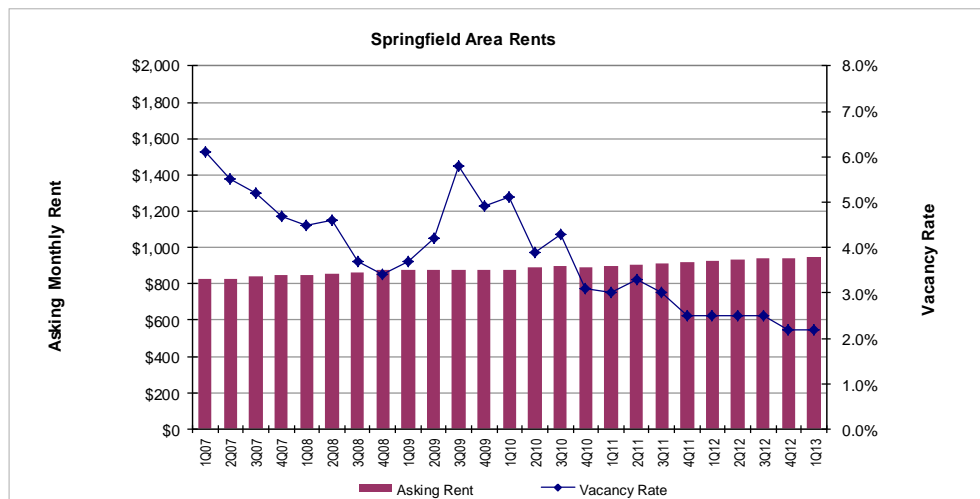
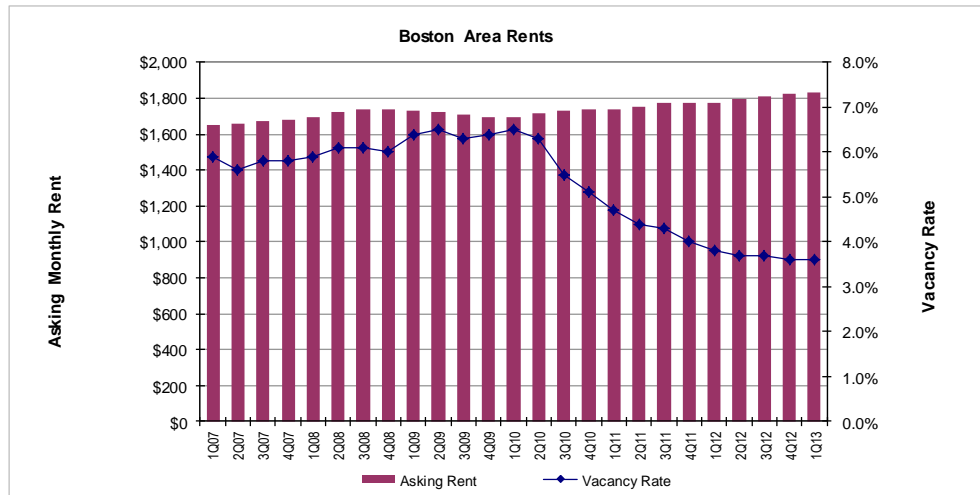
Springfield recorded its highest ever asking rent (\$950) in the first quarter of 2013 according to the Reis survey, and for the past two quarters has had a record low rental vacancy rate of 2.2 percent. In Worcester asking rents peaked in the fourth quarter of 2012 at \$1,151, but remained near record levels in the first quarter of 2013 (\$1,146). Vacancy rates there have been trending down as well, reaching 3.4 percent in Q1 2013. Neither of these markets enjoyed the production levels that Greater Boston experienced during the 2000s, nor is their pipeline as strong. With high construction costs, lower resident incomes and rent levels that are roughly 62 percent (Worcester) and 52 percent (Springfield) of those commanded in the Boston market, it has been challenging to grow the inventory through new production. **Figure 3.15** tracks the quarterly asking rents and vacancies in these three markets since 2007. (Note that all three are presented at the same scale to facilitate comparison.) **Figure 3.16** highlights the year over year changes in rent.

Table 3.8 presents the HUD 2-bedroom fair market rents (FMRs) since 2006 (federal fiscal year) for the 19 HUD-market areas. There is considerable variation in rent levels in these smaller markets, but the upward trend is clear. The one exception is Fall River. Fall River is a small component of the much larger Providence-Fall River metro market area that includes all of Rhode Island. The economic recovery in that state has lagged the Massachusetts recovery, and that is reflected in the depressed rent levels.

⁶⁷ Reis does not publish effective rents for these markets.

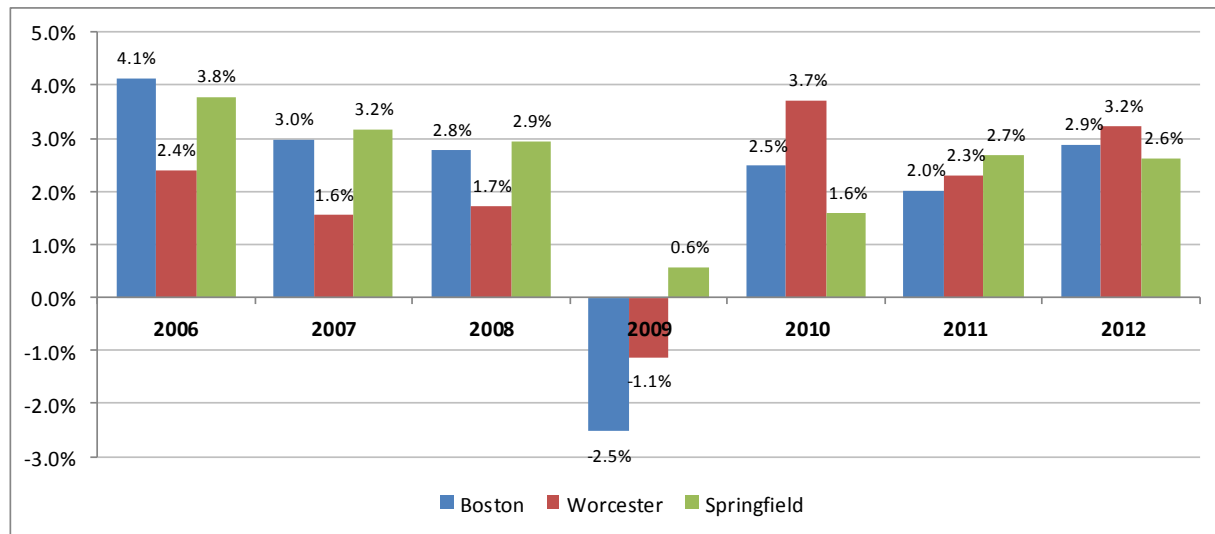
⁶⁸ The Worcester and Springfield markets are subject to greater volatility in rents and vacancies than the Boston market because of their much smaller size.

Figure 3:15 Rents Boston, Worcester, Springfield



Source: Reis.com

Figure 3.16: Year Over Year Change in Asking Rents: Boston, Worcester and Springfield



Source: Reis.com

Table 3:8 HUD 2-BR FMR v Reis.com Median Rent (Boston)

HUD FMR Area	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	% Change 2006-2013
W Worcester Cty	\$616	\$639	\$785	\$813	\$874	\$874	\$713	\$767	24.5%
Berkshire Cty	\$636	\$668	\$764	\$795	\$801	\$806	\$800	\$768	20.8%
Pittsfield	\$672	\$706	\$806	\$839	\$845	\$850	\$835	\$803	19.5%
New Bedford	\$753	\$791	\$819	\$855	\$861	\$874	\$820	\$848	12.6%
Franklin Cty	\$681	\$716	\$820	\$854	\$900	\$905	\$846	\$917	34.7%
Fitchburg	\$811	\$842	\$913	\$946	\$1,017	\$1,012	\$839	\$925	14.1%
Fall River	\$965	\$1,014	\$1,020	\$956	\$963	\$977	\$910	\$930	-3.6%
Springfield	\$799	\$840	\$844	\$874	\$922	\$888	\$855	\$935	17.0%
Worcester	\$857	\$890	\$965	\$922	\$991	\$986	\$897	\$966	12.7%
Lawrence	\$1,042	\$1,075	\$1,127	\$1,160	\$1,171	\$1,183	\$1,097	\$1,115	7.0%
Brockton	\$1,103	\$1,138	\$1,213	\$1,265	\$1,277	\$1,291	\$1,148	\$1,122	1.7%
Lowell	\$1,135	\$1,171	\$1,232	\$1,285	\$1,297	\$1,311	\$1,107	\$1,122	-1.1%
Taunton	\$992	\$1,043	\$1,077	\$1,120	\$1,128	\$1,135	\$1,015	\$1,134	14.3%
E Worcester Cty	\$1,065	\$1,105	\$1,099	\$1,050	\$1,066	\$1,061	\$995	\$1,156	8.5%
Easton	\$1,283	\$1,349	\$1,249	\$1,298	\$1,307	\$1,315	\$1,222	\$1,255	-2.2%
Barnstable	\$954	\$1,003	\$1,145	\$1,192	\$1,201	\$1,208	\$1,229	\$1,267	32.8%
Dukes	\$1,121	\$1,178	\$1,348	\$1,404	\$1,414	\$1,422	\$1,447	\$1,400	24.9%
Boston	\$1,324	\$1,366	\$1,353	\$1,345	\$1,357	\$1,349	\$1,369	\$1,444	9.1%
Nantucket	\$1,332	\$1,400	\$1,604	\$1,671	\$1,683	\$1,693	\$1,799	\$1,877	40.9%

Source: U.S. Department of Housing and Urban Development

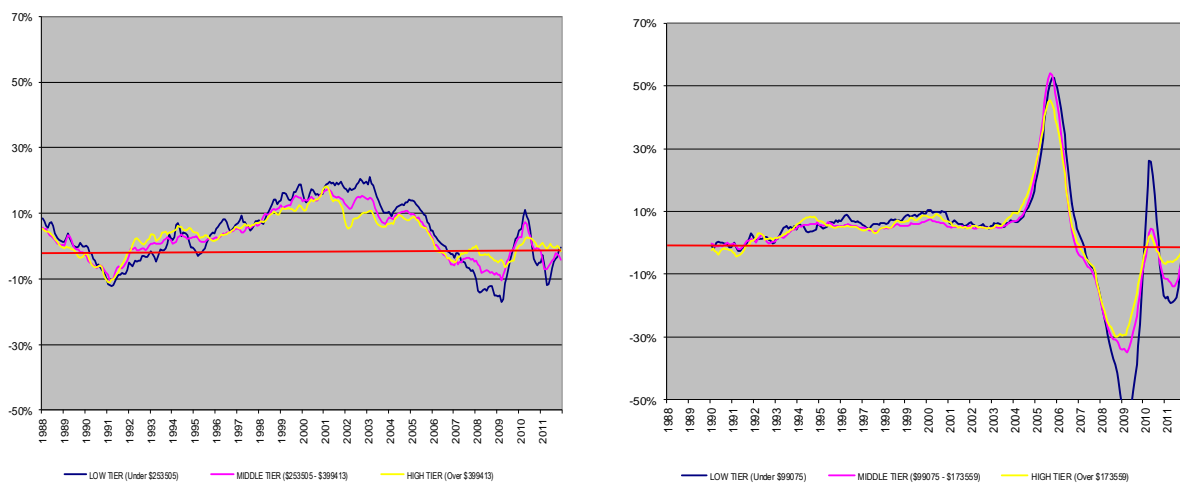
Sales Market-The Housing Bubble

As sales rose to record levels, home prices continued to escalate through the first half of the 2000s in spite of the sluggish economy and slow population growth. Insufficient supply was often cited as the reason for the region's high and rising home prices, but that was only part of the story. During the same period,

regions of the country that were building new homes at an unprecedented rate experienced a far more dramatic run-up in price than Boston did. This is exemplified in **Figure 3.18**, which presents a side-by-side comparison of the Case Shiller index for Boston and Phoenix.

The primary reason prices rose was that it had become easier to buy a home and more lucrative to trade in real estate than in almost any other investment class. The home buying frenzy that engulfed Boston and many other metro areas brought scores of new buyers into the market and, quite predictably, prices rose. Affordability is a function of three factors: income, sales price, and financing terms. Even though incomes were stagnant, and home prices were appreciating by double digits annually, low interest rates combined with lax underwriting and exotic mortgage products enabled more families to purchase a home than ever before, including more low income families. They were encouraged by business and political leaders and the media.

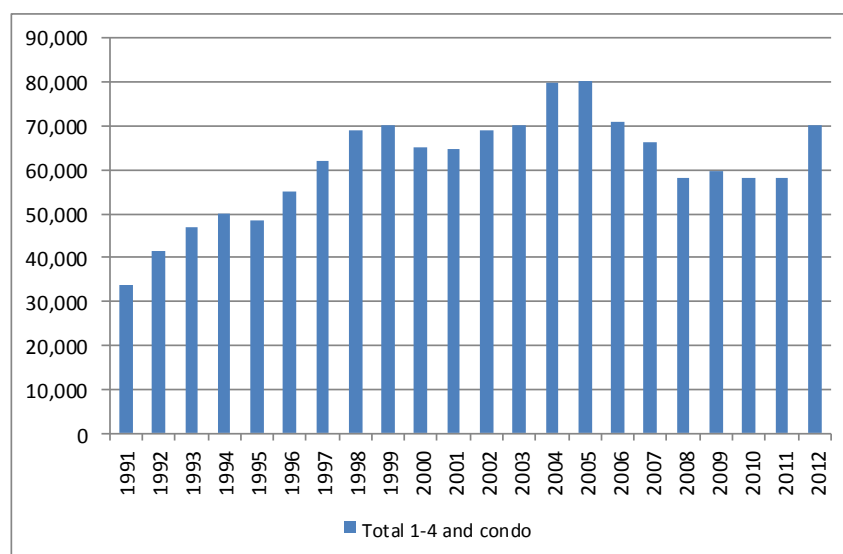
Figure 3.18: Boston (left) and Phoenix (right) Year Over Year Change, Case Shiller Index by Price Tier



Source: S&P Case Shiller tiered price index (not seasonally adjusted)

The number of residential properties selling annually in the Commonwealth increased by almost two-thirds between 1995 and 2005, as shown in **Figure 3.19**.

Figure 3.19: Total Home Sales in Massachusetts, 1991 – 2012*



* Includes 1-4 family homes sales reported by members of the Massachusetts Association of Realtors (MAR). Home sales reported by MAR members represent an estimated 80 percent of all homes sales in the state.

Source: Massachusetts Association of Realtors

Across the country, families stretched to acquire their first home, or trade up to a more desirable home with the easy credit that was readily available, especially from 2002 through 2006. As prices rose, an increasing number of investors and speculators entered the market; in many communities their participation fueled the rising prices. Investors and speculators entered the housing market in increasing numbers as prices skyrocketed. In many markets, their participation fueled the rising prices.⁶⁹

To understand the impact that the new mortgage products had on the income required to qualify for a mortgage, consider the homebuyer purchasing the median priced single family home (\$370,000) at the peak of the market in 2005. She would have required an income of nearly \$90,000 to afford the median under conventional underwriting standards of ten percent down payment and debt-to-income ratios of 33 and 38 percent. Under some of the alternative mortgage products, she could qualify with an income of just \$30,000. Here are just three examples:⁷⁰

- An adjustable 5-1 ARM, for example, would lower the income required to \$84,000;

⁶⁹ Data collected and reported under the Home Mortgage Disclosure Act (HMDA) reveals that lending to non-owner-occupants nationwide rose from about five percent of home-purchase loans in the mid-1990s to about 17 percent in 2005 and 2006. While states such as Florida and Nevada witnessed much greater investor-driven speculation than Massachusetts, a similar trend played out here as the share of home-purchase loans going to investors and second home buyers rose from 5.2 percent to 10.7 percent. The 2006 HMDA Data, Avery, Brevoort, and Canner, <<http://www.federalreserve.gov/pubs/bulletin/2007pdf/hmda06final.pdf>>.

⁷⁰ This example also appears in *The State of the Massachusetts Housing Market: A Statewide and Regional Analysis*, prepared for the Department of Housing and Community Development by the UMass Donahue Institute and Bonnie Heudorfer, November 2008.

- An Option ARM, or a 2/28 ARM at a three percent teaser rate, would allow a buyer earning \$68,000 to qualify; and
- The same product but with a 50 percent income allowance for principal and interest – and no escrow requirement for taxes or insurance – could get a buyer into a home with an income of just \$34,000.

An "option ARM," or "pick-a-payment" loan is typically a 30-year ARM that initially offers the borrower four monthly payment options: a specified minimum payment, an interest-only payment, a 15-year fully amortizing payment, and a 30-year fully amortizing payment.

The rapidly rising home prices during the first half of the decade masked the fact that many homeowners were experiencing financial distress. Because they had built up substantial equity during the housing boom, many struggling homeowners were able to refinance their mortgages with subprime loans despite being delinquent on their monthly payments. In some cases, one subprime loan replaced another. In many cases, though, a fixed rate loan or a favorably priced first-time homebuyer loan was refinanced with a high risk, high cost adjustable one. Once prices began to slump, however, selling or refinancing was no longer an option for borrowers who found themselves unable to repay their loans, and that was when foreclosures in the region began to skyrocket.

Home Prices and Sales

Data on home sales and prices cited in this analysis come from several sources: the Massachusetts Association of Realtors (MAR); the Warren Group, publishers of Banker and Tradesman; the Standard and Poors/Case Shiller Index; and the Federal Housing Finance Agency (FHFA) Home Price Index. The Case Shiller Index tracks repeat sales of the same properties, reporting on 20 large metro areas including Boston, and the FHFA Index based on sales and appraisals involving conforming, conventional mortgages purchased or securitized by Fannie Mae or Freddie Mac and is published at the state and metro level. The MAR reports on sales involving its members in seven regions of the state, which roughly correspond to the seven Benchmark regions, while the Warren Group reports sales for all 351 Massachusetts cities and towns and fourteen counties.⁷¹

Each of these sources report housing market trends based on differing methodologies and coverage, but all document the dramatic run up in home prices between 1997 and 2005. Most peg the peak of the Massachusetts (Boston) market as the fall of 2005, the trough as the spring of 2009. Case Shiller, considered by many analysts the most reliable source, reports that single family home prices in metro Boston rose by 146 percent between January 1997 and September 2005. Measuring the increase from the beginning of the new millennium, the price rise was 83 percent. From their 2005 peak, prices fell by more than 20 percent, bottoming out in March, 2009. They have since recovered modestly, and by March 2013 prices were just about 15 percent below their peak, or at roughly the level of summer 2003 according to Case Shiller.

The rate of price escalation and the year in which sales and home prices peaked varies by region, but statewide, the number of sales crested in the third quarter of 2004. Prices peaked one year later. Between 2000 and 2005, the price of single family homes sold more than doubled in Barnstable County and nearly

⁷¹ Prior to February 2003, the Massachusetts Association of Realtors reported average sales price, not median.

doubled in the island counties of Dukes (Martha's Vineyard) and Nantucket. In fact, the only county not to register an increase of more than 50 percent during this period was Berkshire. Prices fell across the state between 2005 and 2009 as foreclosures mounted and the economy headed into a painful and prolonged recession. As noted, prices have rebounded slightly since 2009, but most of the state has not experienced the recovery in value that Case Shiller documented in the Boston metro area.

Year end 2012 data from the Warren Group show that the median price of homes sold during the fourth quarter of 2012 rose year over year, but the statewide median sales price of a single family home was still 18 percent below the 2005 median price. The Massachusetts Association of Realtors data shows the median price of single family homes sold in 2012 was more than 20 percent below their 2005 peaks in the Central and Southeast regions.⁷² The counties that have shown the smallest declines, for the most part, are those in the western part of the state where prices were relatively low to begin with and/or their run-up was not as steep as that experienced in the eastern part of the state.

Table 3.9 and **Figures 3.20** and **3.21** document the rise and fall of the Massachusetts housing market. Table 3.9 shows the percentage gain/loss by county between 2000 and 2005, 2005 and 2009, and 2009 and 2012. Figure 3.20 compares the median sales price of a single family home in the 5 Greater Boston counties over time to the median price in the state's four westernmost counties, illustrating the significant difference between the housing market in the eastern part of the state and that of the western regions. Not only are home prices in the western part of the state about half what they are in Greater Boston, with few exceptions they did not experience the dramatic run-up in prices and the subsequent drop. Also shown in this figure are the prices for the Southeast and Central regions, which fall in between the extremes of the other two. Not shown on Figure 3.20 are the high priced island counties. Their price histories are shown, along with the other twelve counties, in the series of graphs in Figure 3.21.

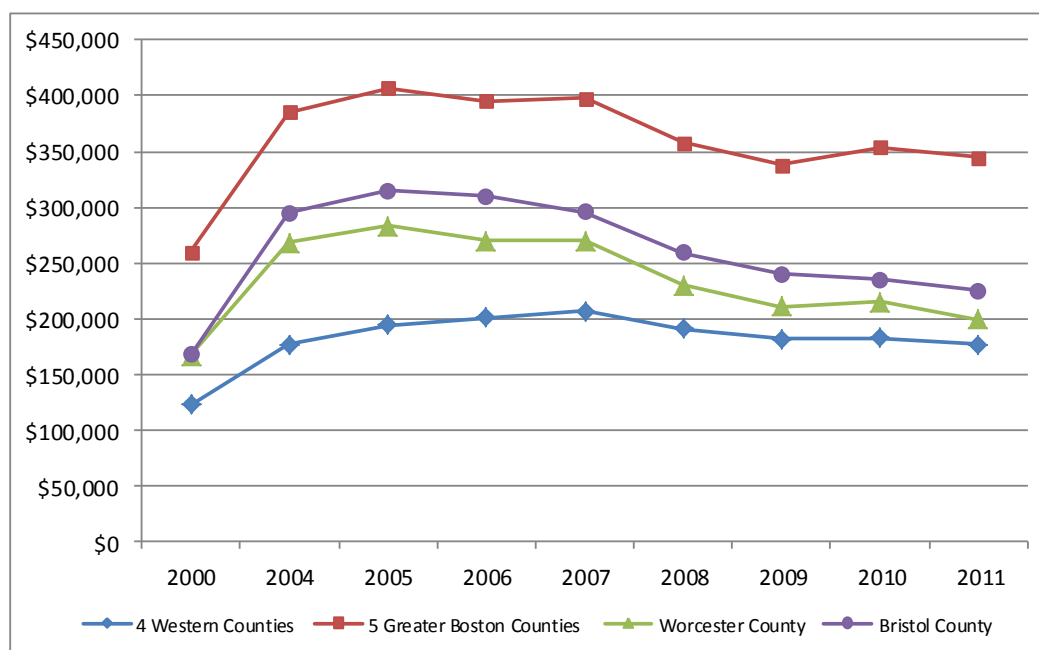
⁷² The reason the Case Shiller index is regarded as the most reliable indicator of changing values is that it compares sales of the same property over time. The Warren Group and Massachusetts Association of Realtors both report the median price of homes sold. The two are not the same. The median price of homes sold will vary depending on the type (price) of the units that changed hands. If, for example, many starter homes sold, but few high end properties, the median would be lower. The value of the homes, however, may not dropped at all. Or the value of the high priced properties may have held up while the entry level home prices dropped, or vice versa.

Table 3.9: Percent Change in Median Price of Single Family Homes Sold Between 2000 and 2012

County	% Change 2000-2005	% Change 2005-2009	% Change 2009-2012
BARNSTABLE	101.0%	-19.2%	2.5%
BERKSHIRE	48.1%	-6.5%	-0.2%
BRISTOL	87.6%	-23.8%	-5.4%
DUKES	98.9%	-11.8%	-3.8%
ESSEX	55.1%	-21.5%	2.5%
FRANKLIN	66.6%	-5.5%	-9.4%
HAMPDEN	56.5%	-5.6%	-7.0%
HAMPSHIRE	71.9%	-9.3%	0.0%
MIDDLESEX	47.5%	-12.7%	3.4%
NANTUCKET	92.7%	-18.5%	-11.1%
NORFOLK	54.5%	-15.8%	1.4%
PLYMOUTH	81.3%	-21.4%	-3.1%
SUFFOLK	74.3%	-21.1%	7.5%
WORCESTER	69.9%	-25.2%	-6.2%

Source: The Warren Group publications based on sales data recorded at the Registries of Deeds

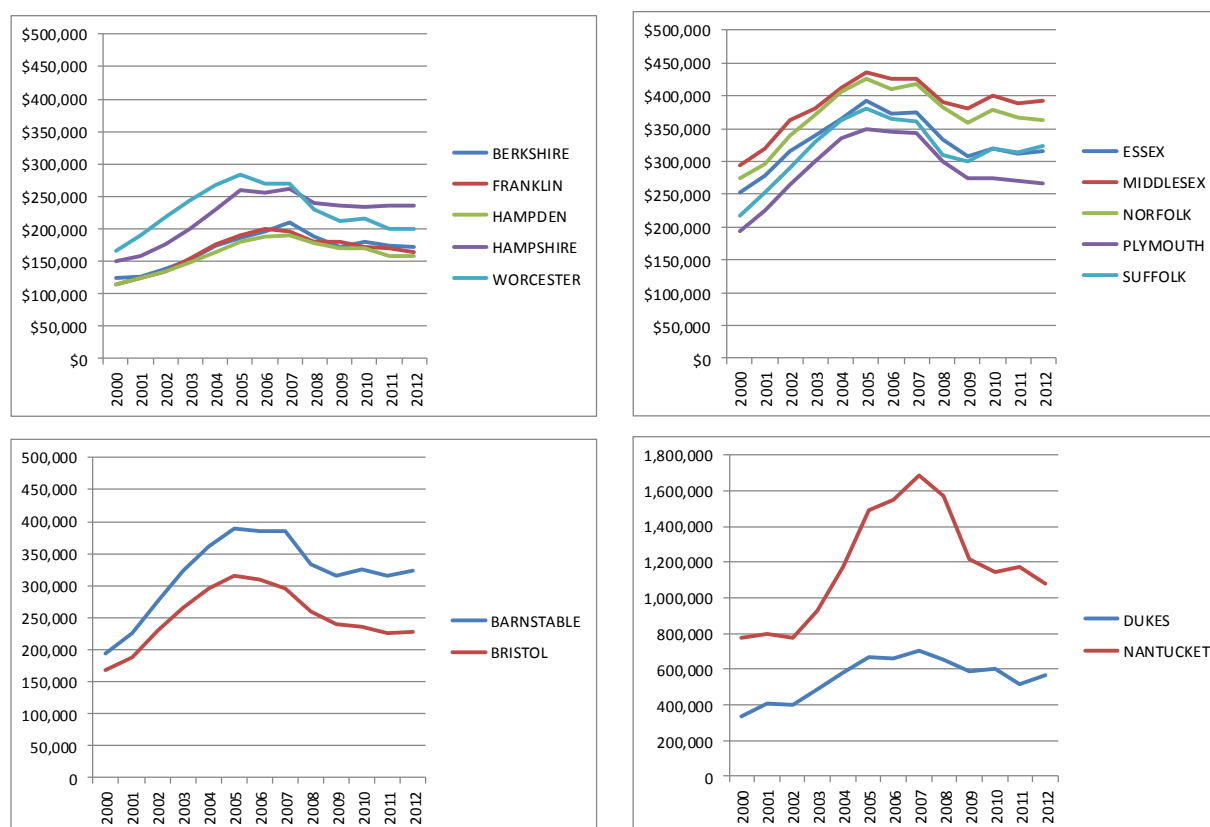
Figure 3.20: Median Price of Single Family Homes Sold: Eastern MA v Western MA, 2000 and 2012*



* Western Counties are Berkshire (Berkshire Region) and Hampden, Hampshire and Franklin (Pioneer Valley Region); Greater Boston Counties are Essex, Middlesex, Norfolk, Plymouth, and Suffolk (roughly corresponding to the Greater Boston and Northeast Regions). Also shown are Worcester County (roughly corresponding to the Central Region) and Bristol County (roughly corresponding to the Southeast Region). The island counties of Dukes and Nantucket are not shown in this figure.

Source: The Warren Group publications based on sales data recorded at the Registries of Deeds.

Figure 3.21: Median Price of Single Family Homes Sold by Year by County Between 2000 and 2012



Source: The Warren Group publications based on sales data recorded at the Registries of Deeds.

Foreclosures

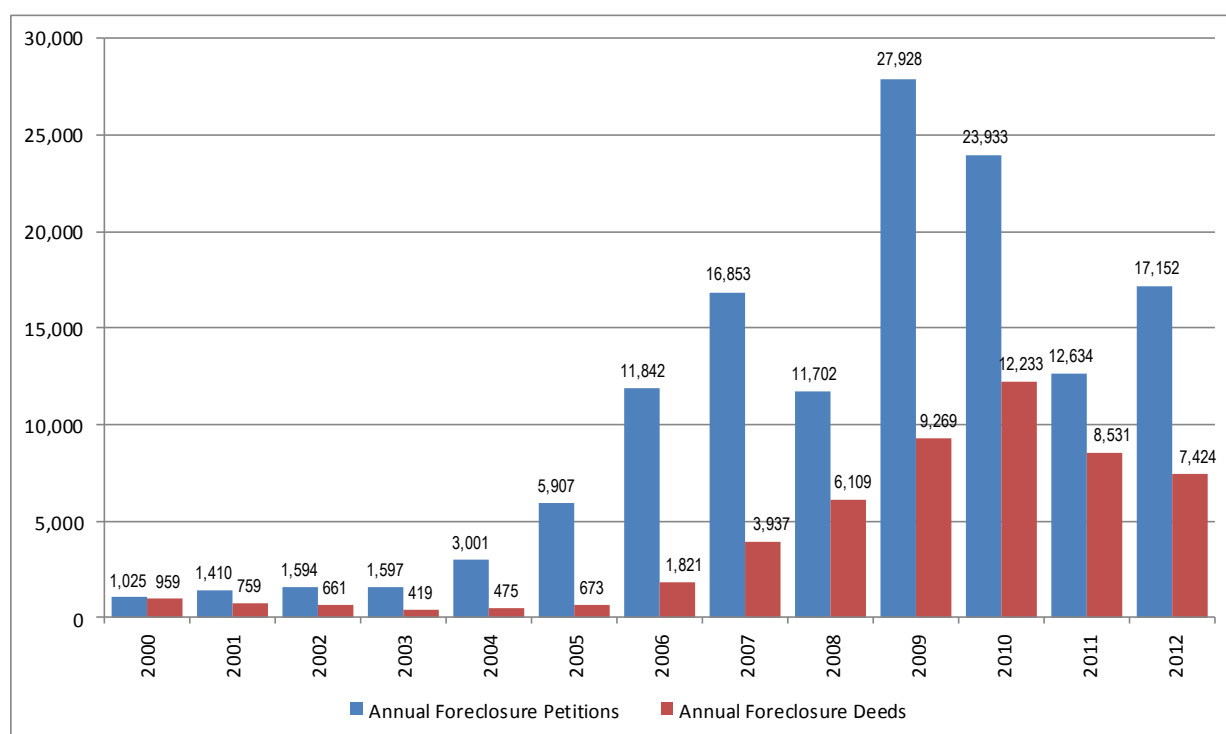
When home prices started to drop in 2006, foreclosure activity began to rise in Massachusetts, as it did across the country. Both petitions to foreclose (the first step in the process) and foreclosure sales (the point at which the owner loses the home) remain elevated, though they have fallen from their 2009-2010 record highs.

Three primary sources for tracking foreclosure activity have been incorporated into this analysis. The Warren Group compiles and reports information on petitions to foreclose, public auctions and foreclosure sales from public record throughout Massachusetts (and New England). Additional insight and analysis has been provided by the Federal Reserve Bank of Boston and the Massachusetts Housing Partnership, both of which have used the Warren Group data to examine the causes, progression and effects of the foreclosure crisis. Since 2008, MHP has published a quarterly newsletter summarizing trends in foreclosure activity across the Commonwealth and the Fed has maintained an interactive foreclosure map on its website to help public officials and community leaders understand the magnitude of the problem and determine how to assist homeowners and the neighborhoods hard-hit by foreclosure.

The initial wave of foreclosures was concentrated in the lower income urban areas, affecting homeowners who had subprime mortgages. Eventually, it spread to a larger group of homeowners, often those who

faced prolonged periods of unemployment. Many non-resident owners – investors and speculators – also lost properties to foreclosure. Between January 1, 2006 and March 31, 2013, more than 50,000 Massachusetts owners lost their homes to foreclosure (**Figure 3.22**). Petitions to foreclose were filed on more than 124,000 homes during the same period, and thousands of these remain unresolved. While every community in the region has experienced at least one foreclosure, the low-income urban neighborhoods – home to the largest concentration of racial and ethnic minority groups – have been most severely impacted. The effect of concentrated foreclosures on the Commonwealth’s communities of color is discussed in Chapter 4.

Figure 3.22: Foreclosure Activity in Massachusetts, 2000 – 2012



Includes 1,2 and 3-family structures and condominiums

Source: The Warren Group Publications

Completed foreclosures in Massachusetts peaked in 2010 with more than 1,200 owners a month losing their homes. That number dropped to 8,531 in 2011 and to 7,424 in 2012. The downward trend has continued into 2013. The number of foreclosure petitions, the first step in the foreclosure process, has shown greater volatility as Figure 3.22 illustrates, with drops precipitated by government intervention and litigation. Petitions dropped in 2008 after a "right to cure" law was enacted to help borrowers resolve delinquencies by giving them 90 days to cure the default and providing them with counseling contact information, but they surged the following year. They declined again when the "right to cure" provision was extended to 150 days in the summer of 2010.

The 2011 drop occurred after it became apparent that employees of major banks and servicers were routinely signing off on foreclosures without proper documentation (“robo-signing”) and 49 state Attorneys General (including Massachusetts AG Martha Coakley) launched an investigation into the foreclosure practices of the nation’s largest lenders. The “robo-signing” fiasco was settled in February 2012 when the federal government and attorneys general announced they had reached a settlement with the country’s five largest mortgage servicers (Ally/GMAC, Bank of America, Citi, JPMorgan Chase, and Wells Fargo) that provides up to \$25 billion in relief to distressed borrowers and direct payments to states and the federal government.

In August 2012, Gov. Deval Patrick signed into law "An Act Preventing Unlawful and Unnecessary Foreclosures," requiring lenders to notify eligible borrowers of their rights to pursue a modified mortgage loan. Rising home prices in many communities, coupled with this new legislation and the “robo-signing” settlement are expected to provide some relief to owners at risk of losing their homes. Foreclosure distress remains a major problem in any low income communities – rural as well as urban – and this is especially true in the Commonwealth’s communities of color.

Current Conditions

Housing Market

The Commonwealth’s housing market continues to show improvement. Even though Massachusetts did experience speculative excesses during the housing bubble, conditions here never got as severe as they did in Florida, Arizona, Nevada and California, where price escalation far outstripped the national rate of increase. It is in those markets that posted the most spectacular gains during the bubble that the loss in value since 2006 has been the greatest. The Federal Housing Finance Agency (FHFA) home price index shows prices in Massachusetts having risen 13 percent more than the national average between January 2000 and March 2013. The Case Shiller index, comparing price changes in major metro areas based on matched pair sales, shows Boston having increased by 7 percent more than the average for the 20 metro areas included in 20 metro area composite index.

Prices of both single family homes and condominiums continue to climb, and Massachusetts home sales reached their highest level in six years in 2012. Consumer confidence is rising, buyer activity has increased and homes are moving faster, but with inventory in short supply, sales slowed during the first quarter of 2013. Listings for both single family homes and condominiums were at their lowest level in more than a decade in March (2013). Analysts consider a 7 month supply a balanced market, but there was just a 5.1 month supply of single family listings in March, and a 4.3 months’ supply of condominium listings. In a handful of hot markets, this has led to prices being bid up by anxious homebuyers.

The median statewide selling price for single-family homes in March (2013) was \$290,000, up 7.8 percent from the same month a year earlier. The median condo price, \$270,000, was up by 8 percent. The inventory of properties for sale is severely depressed. **Figure 3.23**, which presents a snapshot of the Massachusetts (sales) housing market in March 2013 compared to the same month over the past decade, shows a market that appears to be on the road to recovery. (Note that this statewide summary masks the

wide variation in the Commonwealth's local housing markets, some of which are already overheating, others of which are still in decline.)

Figure 3.23: Snapshot of a Recovering Massachusetts Housing Market

Month/Year	1-Family Listings	Monthly Sales	Median 1-Family Price	Monthly Supply	Days on Market	Condo Listings	Monthly Sales	Median Condo Price	Monthly Supply	Days on Market
Mar-03	27,284	2,948	\$290,000	9.3	NA	9,553	1,043	\$205,000	9.2	NA
Mar-04	28,709	3,340	\$318,000	8.6	NA	11,116	1,340	\$274,523	8.3	NA
Mar-05	29,859	3,373	\$350,000	8.9	106	13,445	1,691	\$265,000	8.0	75
Mar-06	39,824	3,550	\$344,000	11.2	126	20,549	1,790	\$270,900	11.5	122
Mar-07	31,353	3,450	\$344,000	9.1	158	15,557	1,765	\$279,000	8.8	142
Mar-08	32,869	2,339	\$315,000	14.1	162	15,835	1,093	\$263,750	14.5	168
Mar-09	26,700	2,235	\$255,000	12.0	156	11,700	922	\$224,500	13.3	158
Mar-10	27,362	3,120	\$279,950	9.5	132	11,709	1,362	\$252,500	9.0	137
Mar-11	28,941	2,646	\$273,500	8.8	127	11,576	1,092	\$232,000	8.9	134
Mar-12	28,159	3,113	\$269,000	8.6	131	9,908	1,163	\$250,000	7.9	123
Mar-13	19,761	3,011	\$290,000	5.1	124	6,543	1,192	\$270,000	4.3	99

Source: Massachusetts Association of Realtors

With mortgage rates still at near historic lows, homeownership is more affordable now than it was before the recession, although rising prices are pushing the housing affordability index down.⁷³ The ratio of house prices to rents – a summary measure of the cost of owning versus renting – is back to traditional levels after rising to significant heights during the housing bubble. Finally, there has been an improvement recently in household formation. In the wake of the financial crisis and recession, many people postponed creating new households as they sought to improve their financial position, but this seems to be changing. What is unclear is whether these new households will become homebuyers or renters.

Increased demand, rising rents and falling vacancies have generated renewed interest in rental development, and apartment construction was up sharply in 2012 and the first quarter of 2013 in Boston and other Inner Core communities. The newly created units, however, remain out of reach for the majority of the region's existing renters. The development pipeline remains strong (40-50,000 units), but getting units permitted, financed and into production is a perennial challenge in Massachusetts.

A few ambitious development proposals became casualties of the recession, but many others were just stalled, not stopped, by the downturn and are now moving forward. Examples of recent high profile mega-projects – some of which were launched before the market collapsed – include Northpoint (Cambridge), SouthField (the former South Weymouth Naval Air Station straddling the towns of Weymouth, Abington and Rockland), Assembly Square (Somerville), the Hingham Shipyard, Westwood

⁷³ Any combination of rising prices and/or interest rates, or wage stagnation can quickly reverse gains in housing affordability. The Massachusetts Association of Realtors housing affordability index shows what percent of a region's median household income is necessary to qualify for the median-priced home under prevailing interest rates, and this index has been dropping as prices have been rising. It stood at 163 in March of 2013, down from 166 a year earlier. (A higher number means greater affordability.)

Station, River Edge (Medford), Legacy Farms (Hopkinton), and several key Boston sites, including the Innovation District. If successful, and many already are, these projects will likely stimulate similar efforts, increasing the possibility that the Governor's goal of creating 10,000 new multifamily homes each year between 2012 and 2020 could be realized.

These trends represent a mixed blessing for Massachusetts residents and those who would like to relocate here. High rents and home prices represent a barrier to entry for those residents and businesses that are not already established here. Yet rising home prices and shrinking inventories are what spurs new development and motivates would-be sellers to put their homes on the market. And while rising home prices pose a challenge for those wishing to buy, they represent financial security for existing owners. Younger families typically count on the equity from the sale of one home to purchase their next one. Seniors often expect to fund their retirement, in part, with the proceeds of the sale of their home.

On the foreclosure front, both the number of petitions to foreclose and foreclosure sales dropped sharply during the first five months of 2013 over the same period in 2012. The Warren Group reports that 2,698 petitions to foreclose were filed and 1,246 Massachusetts owners lost their homes to foreclosure through May, down 66 percent and 69 percent, respectively, year-over-year.⁷⁴ Lenders as well as attorneys who represent property owners and tenants facing eviction, however, caution that the crisis is far from over. They note that temporary slowdowns occurred in 2008 and 2010 as the result of legal and servicing conditions, not market improvements and suggest that at least part of the current slowdown reflects the fact that lenders are revamping their procedures in response to the 2012 changes in state and federal regulations governing foreclosures. Also, serious mortgage delinquencies (90 days or more past due) remain at troubling levels.

Citing data from the Mortgage Bankers Association, the May 31, 2013 issue of the *Foreclosure Monitor* reported that more than 27,000 Massachusetts owners are at least three months behind on their mortgage payments, giving Massachusetts the fifth highest delinquency rate among the fifty states. Serious mortgage delinquencies increased from 3.51 percent of loans outstanding on March 31, 2012 to 3.67 percent on March 31, 2013.⁷⁵ Despite these concerns, rising home prices mean fewer owners are "underwater" (owing more on their mortgage than their property is worth), giving them more options for resolving their mortgage delinquency.

⁷⁴ <http://www.thewarrengroup.com/2013/06/may-marks-another-month-of-decreased-bay-state-foreclosures/>

⁷⁵ http://www.mhp.net/vision/news.php?page_function=detail&mhp_news_id=501

Economic Outlook

The broader Massachusetts' economy, like the housing market, appears to be on the rebound. The forecast for the next few years calls for continued, though gradual, improvement. *MassBenchmarks*, the journal of the Massachusetts economy published by the UMass Donahue Institute in collaboration with the Federal Reserve Bank of Boston, reported in April that real gross state product grew at an annual rate of 3.9 percent in the first quarter of 2013 according to its Current Economic Index. By comparison, the U.S. real gross domestic product increased by 2.5 percent during the same period. The *MassBenchmarks* Leading Economic Index – a forecast of the growth in the current index over the next six months – was 3.5 percent for March. This suggests that the state economy is expected to grow at an annualized rate of 3.5 percent through September (2013), somewhat slower than in the first quarter.

MassBenchmarks' authors – the state's leading economic forecasters – say federal budget cuts (“sequestration”) and weak international conditions continue to weigh on the state's economic growth prospects. Massachusetts receives billions of dollars annually in federal defense and research spending, and economists say that spending cuts are slowing hiring in many of the state's leading industries, including health care, higher education, and research and development. They note that the national and state economies are being strongly influenced by opposing forces. Growth in consumer demand is being supported by rising home prices, stock markets and job expansion. At the same time, payroll tax increases that took effect in January and federal budget cuts that began in March are slowing the economy, especially the scientific research and development sector, which is heavily influenced by federal grant spending in health and science.⁷⁶ The Washington-based Economic Policy Institute reported that Massachusetts is one of the five states with the largest percentage funding cuts for federal grants due to both the March 1 sequestration as well as the passage of the current continuing resolution.⁷⁷

Twice a year the non-profit New England Economic Partnership (NEEP) publishes macroeconomic forecasts of the New England region and its six individual states. The forecasts project quarterly data over a five-year horizon and include information on employment, income, labor force, net interstate migration, as well as population estimates. **Inset 3.1** presents highlights from the most recent bi-annual economic forecast for Massachusetts, presented by Northeastern University's Alan Clayton-Matthews, NEEP's Massachusetts forecast manager, at the organization's May 2013 Conference.

The Effect of Sequestration on Housing Assistance Programs

The federal budget cuts also threaten the well-being of many of the Commonwealth's most vulnerable residents. Sequestration requires across the board cuts in all government spending, and it has been estimated that this will result in funding reduction of 5.0 percent for non-security discretionary programs, including nearly all housing assistance and community

⁷⁶ “Current and Leading Indices - March 2013,” *MassBenchmarks*, April 2013, available at <http://www.massbenchmarks.org/indices/indices.htm>

⁷⁷ <http://www.epi.org/publication/ib363-sequestration-and-state-budgets/>

development programs.⁷⁸

The average household income of those receiving federal housing vouchers in 2009 (the most recent year for which detailed information is available on the roughly 75,000 Massachusetts households receiving them) was 21 percent of the area median income, well below the poverty line. Those being assisted include families with children, seniors and people with disabilities.

The Center on Budget and Policy Priorities (CBPP) has estimated that more than 3,800 Massachusetts families and individuals could lose their rental assistance during the first year of cuts, and the impact of the voucher cuts is compounded by reductions in homeless assistance.

Table 3.10 identifies the projected year one cuts.⁷⁹

The sequestration cuts, initiated in March (2013), are already being felt as housing agencies grapple with the challenge of assisting increasing caseloads with dwindling resources. Among the strategies being employed or contemplated are reducing the number of households served by not issuing new vouchers on turnover, freezing rents, and cutting staffing, management and/or maintenance.

Table 3.10: Estimated Sequestration Cuts on Massachusetts Housing Programs, 2013

Federal Program	2012	Expected 2013 Reduction
Housing Choice Vouchers*	75,182	-3,847
Federal Public Housing	\$190,278,167	-\$9,551,642
Homeless Assistance	\$73,205,748	-\$3,584,945
Community Development Block Grant formula grants	\$88,974,486	-\$4,435,650
HOME Investment Partnerships Program	\$25,171,557	-\$1,253,335
HOPWA Program (Housing Opportunities for Persons With AIDS)	\$4,024,706	-\$206,084
Native American Housing Grants	\$1,128,094	-\$56,608

* Housing Choice Vouchers are shown as number of families served. All other programs are shown as funding level (dollars)

Source: “Estimated Cuts in Federal Housing Assistance and Community Development Programs Due to Sequestration, 2013,” Center for Budget and Policy Priorities, updated March 5, 2013, <http://www.cbpp.org/cms/?fa=view&id=3892>

⁷⁸ “Estimated Cuts in Federal Housing Assistance and Community Development Programs Due to Sequestration, 2013,” Center on Budget and Policy Priorities March 5, 2013 <http://www.cbpp.org/cms/?fa=view&id=3892>

⁷⁹ CBPP is a non-partisan research and policy institute that informs the debate about how federal and state fiscal policies and programs affect low- and moderate-income Americans by providing timely information and analysis on a range of public policy issues, including housing, poverty and income, food assistance, and healthcare. CBPP has estimated the sequestration translates into a funding reduction of 5 percent for non-security discretionary programs, including most housing assistance and community development programs.

Inset 3.2: Massachusetts Economic Outlook

The following are highlights from the most recent bi-annual economic forecast for Massachusetts, presented by Alan Clayton-Matthews, Associate Professor, School of Public Policy and Urban Affairs at Northeastern University and Massachusetts Forecast Manager for the New England Economic Partnership (NEEP) at NEEP's May 2013 Conference.

- The Massachusetts economy is in the fourth year of the expansion that began in the summer of 2009. During this expansion, real gross state product has grown at a 2.9% average annual rate and payroll employment has grown at a 1.3% average annual rate compared to the U.S. annual average of 2.0% and 1.2%, respectively. Payroll employment surpassed its pre-recession peak in January.
- The labor market has improved markedly since the recovery began. The state's unemployment rate fell from a peak of 8.7% in December 2009 to 6.4% in March. Nevertheless, unemployment and underemployment remain a problem, especially for youth, and those without a college education.
- The housing market is on an upward trend, with increases in prices, sales, construction, and construction employment. While growth in the housing market may slow over the remainder of the year, activity will pick up once the economy is through its soft patch. Housing prices are expected to grow between 3 and 4% per year for 2014-2017. Sales are expected to be 30% higher in 2014 than they were in 2012. Permits are expected to reach pre-recession levels by the end of 2014.
- Growth in the Massachusetts economy is expected to slow somewhat from its strong first quarter, and then to accelerate steadily next year. Growth in both the state and the nation is being restrained by fiscal policy, due to the social security tax increase and sequestration spending cuts.
- On a fourth-quarter to fourth-quarter basis, Massachusetts payroll employment is expected to grow 1.0% in 2013. In 2014, job growth will accelerate to 1.6%, and will average 2.2% in 2015, in response to the satisfaction of pent-up consumer demand. As this demand gets satisfied, the pace of growth will return to "normal" levels in 2016, and then slow further as baby-boomers retire and slow labor force growth. Over the five-year forecast period, overall payroll employment is projected to expand at an annual average rate of 1.5%, which is significantly higher than in the prior expansion (2004q1- 2008q1) in which employment growth was 0.9% per year on average.
- Growth in state income and output will essentially follow the same profile as employment, with relatively slow growth in 2013, acceleration in 2014 and 2015, and then a deceleration in 2016 and 2017. Employment in construction, professional and business services; leisure and hospitality; information; and education and health services will grow faster than overall employment, while employment in financial activities; other services; government; trade, transportation, and utilities; and manufacturing, will grow more slowly than overall employment.
- Massachusetts manufacturing employment peaked at 800,900 in 1943 according to Bureau of Labor Statistics data going back to 1939. Today, with 250,100 workers (as of March), the industry is much smaller, but it is still a large sector that employs 8% of the state's workforce. It is also much different, concentrated in the production of computers and electronic products, fabricated metal products, food processing, and machinery.
- The long decline in the number of manufacturing workers may be over. We are projecting employment in the sector to expand modestly over the next five years, at an average annual rate of 0.4%. The state's manufacturing workforce is more highly educated than the country's and the sector provides good jobs at good wages. There will be as many as 95,000 to 100,000 job vacancies in the state's manufacturing sector over the next ten years, due mainly to retirements of existing workers. [Left unanswered: who will fill them? Will the state's education system have the capacity and the quality programs needed to supply the future manufacturing workforce?]

The NEEP projections, based on econometric models prepared by Economy.com, forecast quarterly data over a five-year horizon and include information on employment, income, labor force, net interstate migration, as well as population estimates.

Source: Extracted from the executive summary of Alan Clayton-Matthews presentation at the May 2013 NEEP Conference. The full executive summary and complete text of Dr. Clayton-Matthews presentation is posted on the New England Council website, <http://www.newenglandcouncil.com/assets/MA-NEEP-May-2013.pdf>

4. How Economic & Housing Market Conditions Have Affected Protected Classes

Much of what transpired between 1997 and 2006, when the overheated Massachusetts housing market imploded, had a disparate impact on the Commonwealth's communities of color. In particular, three trends had important fair housing consequences: the volatility in the housing market, the home buying patterns of racial and ethnic populations, and the reckless mortgage lending practices that fueled the housing bubble.

Volatility in the Housing Market and its Impact on Communities of Color

The rise and fall of home prices described in Chapter 3 – and the rate of recovery – has varied not only by region (county), but by community and even neighborhood. Some of the greatest volatility occurred in low income neighborhoods and communities of color, and the residents of these neighborhoods have borne the brunt of the downturn. There are several reasons for this.

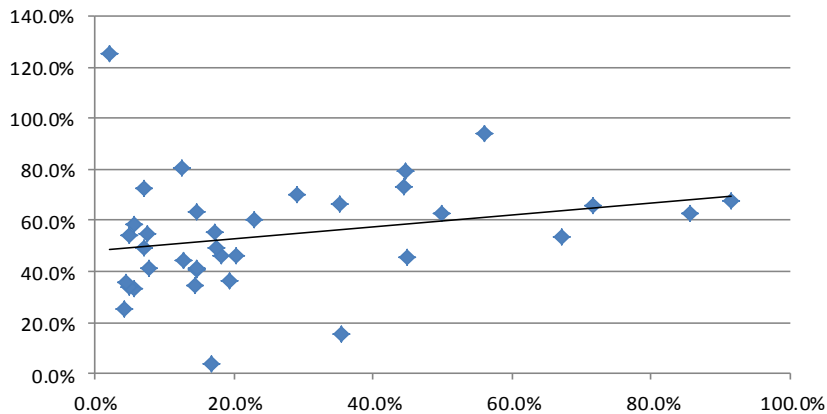
Blacks and Latinos were more likely to have purchased, or refinanced, at or near the peak of the market so they were less likely to have accumulated equity that could provide a cushion against declining values. They were also more likely to have financed their property with a high cost, high risk mortgage. And, they were more likely to have purchased in a community where prices rose most dramatically in the early years of the decade, but have fallen most sharply since 2005. Asian and White home buying peaked in 2004, the year before prices peaked, but Black and Latino home buying did not peak until 2005. The number of Asian purchase mortgages dropped by 8 percent between 2004 and 2005 and the number of White mortgages declined by 3 percent, but the number of Latino purchase mortgages rose by more than 17 percent and Black by nearly 26 percent.⁸⁰

The scatterplot charts presented in **Figures 4.1** and **4.2** illustrate the correlation between a community's home prices and its share of Black and Hispanic households. These figures are based on home sales in the Greater Boston region, where most of the minority home buying occurs. While home prices were escalating by double digits throughout the region during the first half of the 2000s, the Black and Latino destinations experienced especially high rates of price inflation. This can be attributed, in part, to the fact that their home prices were relatively lower to begin with, but fueling the run-up in prices was the easy

⁸⁰ *Changing Patterns XII-XIV*, Jim Campen, Professor Emeritus of Economics, University of Massachusetts Boston, prepared for the Massachusetts Community and Banking Council (2004-2006)

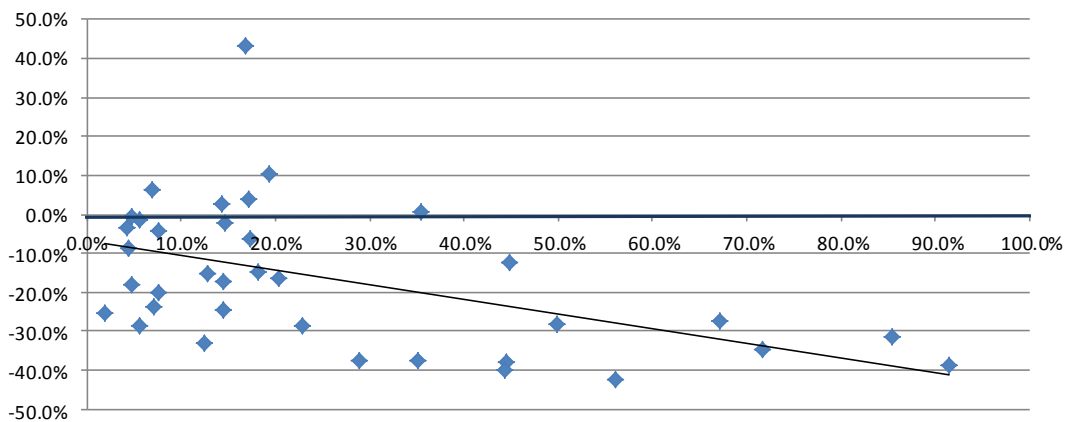
and abundant credit available to borrowers and neighborhoods that had historically gone un- or underserved.

Figure 4.1: Percent Change in Home Prices in Inner Core Communities, by Percent Black and Hispanic, 2001 - 2005



Source: The Warren Group (sales), U.S. Census (race, ethnicity)

Figure 4.2: Percent Change in Home Prices in Inner Core Communities, by Percent Black and Hispanic, 2005 - 2011



Source: The Warren Group (sales), U.S. Census (race, ethnicity)

Racial and Ethnic Home buying Trend- Increasing Racial/Ethnic Minority Group Homeownership

The majority of the Commonwealth's households of color rent (**Table 4.1**), but they became homeowners in large numbers during the 1990s and through the middle of the 2000 decade. Many took advantage of

first-time home buyer programs offered by the state's lenders and quasi-public agencies, but many others purchased or refinanced their homes with high cost subprime mortgages and they have been disproportionately impacted by foreclosures. The 2000 Census reported that there were nearly 10,900 more Black homeowners than there had been a decade earlier in Massachusetts, an increase of nearly 44 percent. The number of Hispanic owners had increased by almost 12,300, a 91 percent increase, and the number of Asian homeowners by more than 14,800, a near doubling, over the same period. The number of White homeowners rose by nearly 136,600 or just under 11 percent.

By the time the 2010 Census was conducted, the number of Black owners had risen by another 12,300 (35%). The number of Hispanic owners was up by nearly 20,000 (77%) while the number of Asian owners had climbed by over 24,000 (81%). The number of White homeowners, in contrast, rose by just over 8,200, an increase of less than one percent.

Table 4.1: Tenure by Race/Ethnicity in 1990 and 2010

1990	Total	Black*	Asian*	White*	Hispanic	All Other
Owners	1,331,533	24,792	14,929	1,273,907	13,533	4,372
<i>Racial/ethnic group's share of owners</i>		1.9%	1.1%	95.7%	1.0%	0.3%
<i>Percent of racial/ethnic group that owns</i>	59.3%	27.2%	40.0%	62.8%	17.4%	39.4%
Renters	915,577	66,478	22,417	755,633	64,318	6,731
<i>Racial/ethnic group's share of renters</i>		7.3%	2.4%	82.5%	7.0%	0.7%
<i>Percent of racial/ethnic group that rents</i>	41.9%	78.5%	78.5%	33.5%	91.1%	88.9%
Total	2,247,110	91,270	37,346	2,029,540	77,851	11,103
2010	Total	Black*	Asian*	White*	Hispanic	All Other
Owners	1,587,158	47,993	53,804	1,418,689	45,653	21,019
<i>Racial/ethnic group's share of owners</i>		3.0%	3.4%	89.4%	2.9%	1.3%
<i>Percent of racial/ethnic group that owns</i>	62.3%	34.7%	49.6%	68.9%	24.8%	37.5%
Renters	959,917	90,342	54,659	641,760	138,110	35,046
<i>Racial/ethnic group's share of renters</i>		9.4%	5.7%	66.9%	14.4%	3.7%
<i>Percent of racial/ethnic group that rents</i>	37.7%	65.3%	50.4%	31.1%	75.2%	62.5%
Total	2,547,075	138,335	108,463	2,060,449	183,763	56,065

* Not Hispanic

Source: 1990 and 2010 Decennial Census

Highly Concentrated Home buying

Despite these gains, the legacy of race-associated bias is evident in the racial and ethnic concentration of homeownership, the high incidence of subprime lending and the concentration of foreclosures in the region's communities of color. Black homeowners, in particular, remain geographically concentrated in a handful of communities, and recent Black home buyers have tended to purchase in those same communities. As noted in Section 3, there may be many reasons for this clustering, including personal choice, but research on race and concentrated poverty has shown that Blacks and Hispanics are far more likely to live in high poverty areas than Whites with the same incomes. The top ten home buying communities for the major racial/ethnic groups during the boom years of 2000 to 2006 are shown in

Table 4.2. The pattern is similar to that seen in Table 2.5. Nearly 84 percent of Black home buyers during this period purchased a home in one of the ten communities shown in Table 5.2 as the top destinations for Blacks; 64 percent of Latinos purchased in a top ten Latino community; 39 percent of Asians; and 23 percent of Whites did likewise.

Table 4.2: Top Home buying Communities for Major Racial/Ethnic Groups, 2000 - 2006

Asian	Black	Latino	White
Boston	Boston	Boston	Boston
Quincy	Brockton	Lawrence	Worcester
Lowell	Springfield	Springfield	Springfield
Worcester	Worcester	Lynn	Plymouth
Malden	Randolph	Worcester	Haverhill
Newton	Lynn	Revere	Lowell
Cambridge	Lowell	Chelsea	Quincy
Shrewsbury	Malden	Brockton	Newton
Brookline	New Bedford	Lowell	New Bedford
Acton	Milton	Framingham	Weymouth

Source: This table is based on home purchases financed with mortgages reported under the Home Mortgage Disclosure Act. Data provided by Jim Campen, Professor Emeritus, University of Massachusetts Boston, based on HMDA data for Massachusetts

(Note: There is a similar table (Table 5.2) in the following chapter, that depicts the communities where the greatest number of Black, White, Asian, and Latino households live. The notable difference between this table and Table 5.2 is the emergence of Acton and Shrewsbury as popular destinations for Asian home buyers; Framingham for Latinos; and Plymouth and Haverhill for Whites. Cambridge, already home to a large share of the state's Black and White populations, was not a top ten home buying location for either group, likely because of its high home prices.)

Reckless Mortgage Lending Practices ⁸¹

The U.S. mortgage industry underwent a dramatic transformation beginning in the 1990s. A number of factors contributed to the revolution in mortgage finance: deregulation of the banking industry; increasing use of automated underwriting; credit scoring and risk-based pricing; lender consolidation and specialization; the development of new, high-risk products; the increasing role of mortgage brokers; and an expanded and sophisticated secondary market with an appetite for high yielding investment opportunities. Changes in the way applications were generated, evaluated and funded brought new players, products and practices into the marketplace. With these changes came new concerns and new

⁸¹ Data on mortgage lending in Massachusetts is compiled and reported annually by the Massachusetts Community and Banking Council (MCBC), based on a detailed analysis of Home Mortgage Disclosure Act (HMDA) filings and other data by Jim Campen, Professor Emeritus at the University of Massachusetts Boston. MCBC has tracked home purchase lending in Boston since 1990 and gradually expanded its geographic coverage. It now reports data statewide and includes refinancings as well as home purchase loans. When HMDA reporting requirements were expanded in 2004 to include loan pricing, MCBC began to report information on "high-APR" loans (high cost loans or HALs) as well. Before data on high cost loans was available, MCBC reported lending by subprime lenders as proxy for subprime – and possibly predatory – lending.

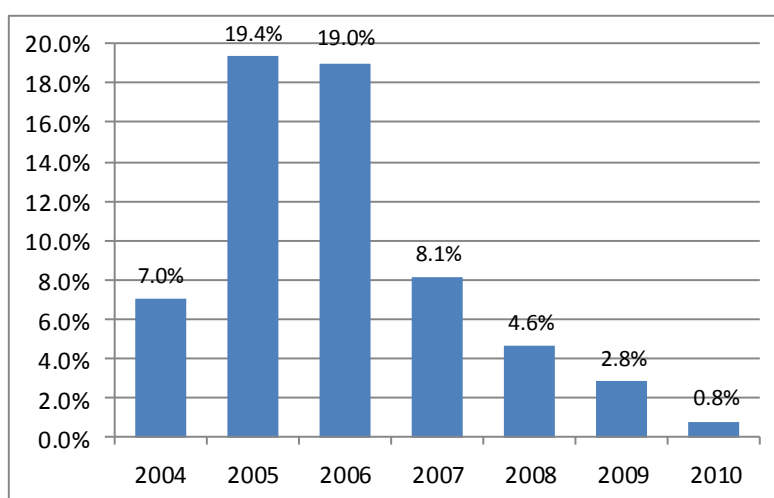
abuses, yet the regulatory framework for ensuring the fair, safe and efficient operation of the mortgage markets remained largely as it had been when the market was dominated by federal and state regulated depository institutions.⁸²

Subprime Lending

Subprime lending had previously been confined to the home equity and refinance markets, where the predatory practices of a number of lenders had already become a major concern. By 2003, however, subprime loans constituted a larger share of home purchase loans than of refinancings. New mortgage products and a delivery system that rewarded quantity over quality enabled many – including those with poor or non-existent credit – to buy homes, or to borrow against the equity they had accumulated in their existing homes.

The rise in subprime lending tracked the rise in home prices, especially in the Greater Boston region. The number of home purchase subprime loans peaked in 2005, the same year home prices peaked. The number of subprime refinancing loans peaked the following year.⁸³ (Figure 4.3)

Figure 4.3: The Rise and Fall of Subprime Lending in Massachusetts



Source: *Changing Patterns XIV-XVIII*, Jim Campen

Black and Latino borrowers were much more likely to have received subprime loans during this period than were Whites. For home purchase loans in Greater Boston, for example, the subprime loan shares were 49 percent for Blacks and 48 percent for Latinos, but only 11 percent for Whites. More than 60 percent of Black homebuyers in Brockton received subprime loans, as did more than 60 percent of Latino

⁸²Expanding Fair Access to Credit: A Resource Guide for Massachusetts Lenders on Second Look Policies, Mortgage Broker Oversight and Self-testing, Bonnie Heudorfer, Massachusetts Fair Lending Coordinating Committee (2008).

⁸³*Changing Patterns XIV-XVIII*, Jim Campen, Professor Emeritus of Economics, University of Massachusetts Boston, prepared for the Massachusetts Community and Banking Council (2008-2011)

home-buyers in Lawrence and Framingham. Subprime loan shares were much greater in neighborhoods with lower income levels and higher percentages of residents of color.

Research has since shown that many who received high cost subprime loans could have qualified for a prime loan.⁸⁴ Subprime lenders had a financial incentive to steer borrowers into subprime loans, because they generally resulted in substantially higher fees than their prime loan products did. Traditionally underserved markets – low-income census tracts and racial/ethnic minority group borrowers – were aggressively, often deceptively, targeted by many subprime lenders. **Table 4.3** documents the higher cost such a borrower was likely to have incurred on a \$300,000 30-year fixed rate mortgage during the peak of the housing boom in 2005.

Table 4.3: A Comparison of Monthly Payments, Prime Pricing versus Subprime on a \$300,000 Loan

Type	Interest Rate	Monthly Payment	Addl monthly cost over prime-rate loan	Addl annual cost over prime-rate loan
Prime loan	6.00%	\$1,799	--	--
Minimum-rate High APR (subprime) loan	7.75%	\$2,149	\$350	\$4,200
Medium-rate High APR (subprime) loan	9.41%	\$2,503	\$704	\$8,448

Source: *Borrowing Trouble VII*, Jim Campen, Massachusetts Community and Banking Council

The share of subprime loans in the majority minority cities was much greater than it was in other cities and towns. In Brockton, for example, the subprime share was nearly 50 percent for home purchase mortgages and over 39 percent for refinancings. The comparable figures for Lawrence were 56 percent and 43 percent.

Statewide, more than 21,000 low-income households per year purchased homes during the boom years of 2001 to 2006, accounting for more than 24 percent of all homes bought during this period. Very low-income purchasers alone accounted for five percent of home purchases. Many more low-income homeowners refinanced, often taking cash out at closing, as the value of their homes rose. During 2006 – even after prices had peaked – nearly 104,000 homeowners of all income levels obtained mortgages to refinance, while 77,000 obtained home purchase loans. Nineteen percent of these home purchase loans and 25 percent of the refinancings involved subprime loans.

Government-backed Loans

The subprime mortgage industry imploded in 2007. Although it was still strong in the beginning of that year, it had almost disappeared by year end. By 2010, subprime lending had ceased to be a factor in the

⁸⁴ In *Borrowing Trouble*, Campen notes that while all predatory loans are subprime, not all subprime loans are predatory. Industry representatives and advocates both acknowledge that subprime lending can fill an important market niche. When done responsibly and ethically, it can make credit available to borrowers who might not otherwise be able to obtain it. By charging a somewhat higher cost, commensurate with the increased expenses and risks they bear, a responsible subprime lender can enable borrowers with damaged credit or other risk factors to obtain credit. Recent history proved, however, that subprime lending as it was practiced in the early 2000s was neither responsible nor ethical.

Massachusetts mortgage market. In its place, government-backed loans (FHA-insured or VA-guaranteed loans, or GBLs) have become the primary instrument for borrowers unable to get approved for, or afford, a conventional mortgage. Government-backed loans are somewhat more expensive than convention prime loans, but are generally considered responsible and sustainable loans. Jim Campen, professor emeritus of economics at the University of Massachusetts and the author of the annual *Changing Patterns* reports on mortgage lending in the state, notes, “They [GBLs] are not a problem in themselves, but are a symptom of – and a constructive response to – a deeper problem: the limited availability of conventional prime loans to lower-income and racial/ethnic minority group borrowers and neighborhoods.”⁸⁵

In 2010, GBLs accounted for 79 percent of all home-purchase loans and 31 percent of all refinance loans in Lawrence, and 73 percent of purchase and 25 percent of refinance loans in Brockton. They made up more than half of all home-purchase loans in Lynn, Revere, Methuen, Taunton, and Attleboro. The region’s Black and Latino borrowers are much more likely to receive GBLs than are their White or Asian counterparts. For home-purchase loans in Greater Boston, the GBL loans shares in 2010 were 54 percent for blacks and 55 percent for Latinos compared to 24 percent for Whites.

The Impact of Concentrated Foreclosures on Communities of Color

The legacy of reckless subprime lending – and irresponsible lending practices in general – during the mid-2000s has been disproportionately borne by communities of color. The concentration of subprime lending in those communities during the early part of the decade led to widespread foreclosures, which have jeopardized the gains in racial/ethnic minority group homeownership and the stability of entire neighborhoods. While many key indicators show that the housing market is now recovering and there is reason to believe that the worst of the foreclosure crisis has passed, communities of color – Boston’s racially identified neighborhoods and the 24 Gateway Cities – continue to be hard hit.

The most recent issue of the Massachusetts Housing Partnership’s *Foreclosure Monitor* notes that the 24 Gateway Cities, which represent just 25 percent of the state’s housing units, account for 39 percent of the state’s foreclosure distress, with an overall “foreclosure distress” rate that is 54 percent higher than the state’s.⁸⁶ These cities are home to 53 percent of the Commonwealth’s Latino homeowners and 40 percent of Black homeowners, but just 25 percent of Asian and 19 percent of White households. (*Foreclosure Monitor* defines distressed properties as all those properties where a foreclosure.

Research by economists at the Federal Reserve Bank of Boston documents the link between subprime mortgages and foreclosures. Based on an analysis of homeownership experiences in Massachusetts between 1989 and 2007, the Fed economists found that ownerships that began with a subprime purchase mortgage ended up in foreclosure almost 20 percent of the time, or more than 6 times as often as those that began with prime purchase mortgages. Subprime lending, they concluded, had created a class of homeowners who were particularly sensitive to declining house price appreciation. The Fed researchers reported that approximately 30 percent of the 2006 and 2007 foreclosures statewide could be traced to owners who used a subprime mortgage to purchase their home. Existing homeowners were another easy

⁸⁵ *Changing Patterns* XVIII, Campen.

⁸⁶ http://www.mhp.net/vision/news.php?page_function=detail&mhp_news_id=501

target for subprime lenders; almost 44 percent of the foreclosures were of homeowners whose last mortgage was originated by a subprime lender.⁸⁷ A comparison of the subprime lending maps (**Figure 4.4**) and the foreclosure maps (**Figure 4.5**) documents the link between subprime lending and foreclosures.

The city of Boston provides a clear example of the Fed findings. Four of the city's five racially identified planning districts – Dorchester, Roxbury, Mattapan, and East Boston – were among the five districts with the highest proportions of subprime loans, both for home purchase and refinancing. Hyde Park, the other racially identified neighborhood, ranked sixth after the predominantly white Allston-Brighton. Boston's 2010 *Analysis of Impediments* reported that Dorchester, Roxbury, Mattapan, Hyde Park, and East Boston accounted for 81 percent of all foreclosure deeds in the city and had experienced the largest percentage drop in home values. Similarly, Brockton and the majority Latino cities of Chelsea and Lawrence saw foreclosures surge and property values drop at a faster rate than surrounding communities.⁸⁸

Unlike mortgage applications, foreclosure records do not include borrower characteristics such as income, race or ethnicity. As part of this analysis, however, DHCD compared the number of foreclosure deeds filed between 2006 and 2011, by community, with the racial and ethnic characteristics of the community's homeowners to determine the extent of any disparate impact on protected classes. The City of Boston was divided into 12 neighborhoods, corresponding to its Planning Districts.⁸⁹ The top 25 cities and towns – or in the case of Boston, neighborhoods – are shown in **Figure 4.4**. Six of the top communities are majority minority cities. Just over 9 percent of White homeowners and 10 percent of Asians live in the 25 high foreclosure communities compared to 29 percent of Latino and 54 percent of Black owners.

⁸⁷ "Subprime Outcomes: Risky Mortgages, Homeownership Experiences, and Foreclosures," Kristopher Gerardi, Adam Hale Shapiro, and Paul S. Willen, Federal Reserve Bank of Boston Working Paper No. 07-15, May 2008

⁸⁸ http://www.cityofboston.gov/images_documents/Boston%20AI%20Press%20PDF%20Version_tcm3-16790.pdf

⁸⁹ The number of foreclosure deeds filed on 1, 2 or 3 family homes or condominiums was compared to the estimated number of such units (using the number of owner-occupied units as a proxy for condominium units in 5+ unit multifamily properties). The Boston Redevelopment Authority (BRA) recognizes 16 planning districts. The North and South Dorchester Planning Districts were combined into a single Dorchester district and the Back Bay, Beacon Hill, Central, Fenway/Kenmore and South End Planning Districts were combined into a single Downtown district to facilitate our analysis. These groupings are consistent with those used by the Warren Group, the primary source of home sales, mortgage and foreclosure information in Massachusetts. The BRA planning districts, into which Census data are aggregated and reported and the Warren Group neighborhood definitions do not align precisely, but they are comparable and provide a useful way to look at the city's widely divergent housing markets.

Table 4.4: Massachusetts Communities with the Most Foreclosures Recorded Foreclosures per 1,000 Units in 1-4 Family Structures Plus Owner Occupied Units in 5+ Unit Structures, 2006-2011, Based on

Municipality	Majority Minority	Total Housing Units*	All Units in 1-4 Family Structures + Owner Units in 5+ Unit Structures*	Total Foreclosures 2006-2011	Foreclosures per 1,000 Housing Units#	Share of Community's Homeowners who are -					Share of MA Homeowners who are -				
						White*	Minority^	Black*	Asian*	Hispanic	White*	Minority^	Black*	Asian*	Hispanic
Athol		4,656	4,263	301	70.61	96.7%	3.3%	0.5%	0.3%	1.4%	0.2%	0.1%	0.0%	0.0%	0.1%
Dorchester	1	33,217	25,598	1,729	67.54	50.3%	49.7%	29.5%	7.6%	6.5%	0.4%	3.5%	7.3%	1.7%	1.7%
Winchendon		3,810	3,252	208	63.96	96.0%	4.0%	0.8%	0.5%	1.7%	0.2%	0.1%	0.0%	0.0%	0.1%
Orange		3,172	2,599	151	58.10	97.2%	2.8%	0.5%	0.3%	1.1%	0.2%	0.0%	0.0%	0.0%	0.1%
Brockton	1	33,303	27,623	1,525	55.21	62.2%	37.8%	22.6%	2.2%	5.2%	0.8%	4.2%	8.7%	0.8%	2.1%
Chester		543	509	28	55.01	98.9%	1.1%	0.2%	0.0%	0.7%	0.0%	0.0%	0.0%	0.0%	0.0%
Springfield	1	56,752	44,003	2,177	49.47	62.7%	37.3%	17.4%	1.9%	16.2%	1.2%	6.3%	10.2%	1.0%	10.0%
Milville		1,094	991	49	49.45	97.2%	2.8%	0.6%	0.4%	0.9%	0.1%	0.0%	0.0%	0.0%	0.0%
Mattapan	1	13,143	9,306	454	48.79	8.8%	91.2%	80.6%	1.3%	6.0%	0.0%	2.5%	7.6%	0.1%	0.6%
Gardner		8,224	6,065	291	47.98	94.6%	5.4%	0.8%	1.2%	2.5%	0.3%	0.1%	0.1%	0.1%	0.2%
Warren		2,021	1,695	81	47.79	97.3%	2.7%	0.5%	0.3%	1.0%	0.1%	0.0%	0.0%	0.0%	0.0%
Wareham		9,071	7,997	357	44.64	90.0%	10.0%	2.6%	0.4%	0.9%	0.4%	0.4%	0.4%	0.1%	0.1%
Mashpee		6,118	5,545	243	43.82	92.2%	7.8%	1.8%	0.6%	1.1%	0.3%	0.2%	0.2%	0.1%	0.1%
Barnstable		19,225	19,038	820	43.07	94.5%	5.5%	1.4%	0.6%	1.2%	1.0%	0.5%	0.4%	0.2%	0.4%
Lynn		33,310	25,603	1,096	42.81	74.5%	25.5%	7.4%	4.4%	12.2%	0.8%	2.4%	2.4%	1.3%	4.2%
Randolph	1	11,551	10,085	430	42.64	52.1%	47.9%	29.2%	11.2%	4.1%	0.3%	2.3%	5.0%	1.7%	0.7%
Carver		4,297	3,208	136	42.39	96.0%	4.0%	1.2%	0.3%	0.6%	0.3%	0.1%	0.1%	0.0%	0.1%
North Brookfield		1,862	1,897	79	41.64	97.6%	2.4%	0.3%	0.2%	1.1%	0.1%	0.0%	0.0%	0.0%	0.0%
Fitchburg		15,165	12,116	503	41.52	85.4%	14.6%	2.7%	2.3%	8.4%	0.5%	0.7%	0.5%	0.4%	1.5%
Holland		994	1,021	41	40.16	97.4%	2.6%	0.6%	0.1%	0.8%	0.1%	0.0%	0.0%	0.0%	0.0%
Middlefield		218	176	7	39.77	99.0%	1.0%	0.0%	0.5%	0.5%	0.0%	0.0%	0.0%	0.0%	0.0%
Royalston		498	463	18	38.88	97.2%	2.8%	0.0%	0.9%	0.9%	0.0%	0.0%	0.0%	0.0%	0.0%
Worcester		68,613	52,699	2,003	38.01	81.5%	18.5%	6.1%	4.2%	6.8%	1.8%	3.3%	3.9%	2.4%	4.5%
Southbridge		6,866	5,538	209	37.74	85.9%	14.1%	0.9%	1.4%	10.9%	0.2%	0.3%	0.1%	0.1%	0.8%
Roxbury	1	21,909	14,824	557	37.57	16.1%	83.9%	62.0%	2.4%	12.1%	0.1%	2.7%	7.0%	0.2%	1.4%
% in Top 25 Foreclosure Communities											9.4%	29.7%	54.0%	10.1%	28.9%

Notes: * - Not Hispanic; ^ - All householders other than White Alone, Not-Hispanic; communities are ranked based on foreclosure sales per 1,000 units excluding renter occupied units in large (5+ unit) multifamily structures.

Figure 4.4: Subprime Loans in Massachusetts Cities and Towns by Year, 2006 – 2011

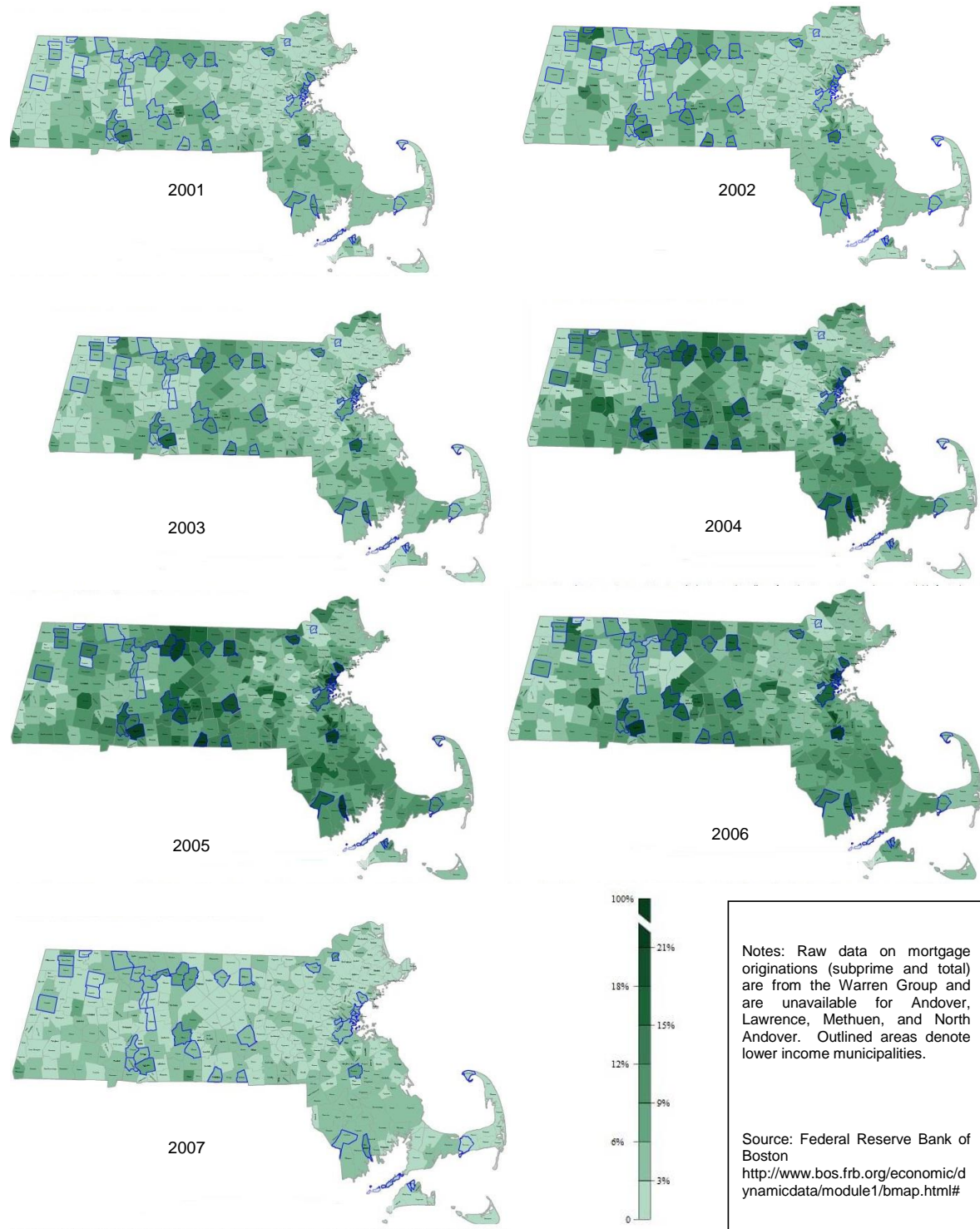
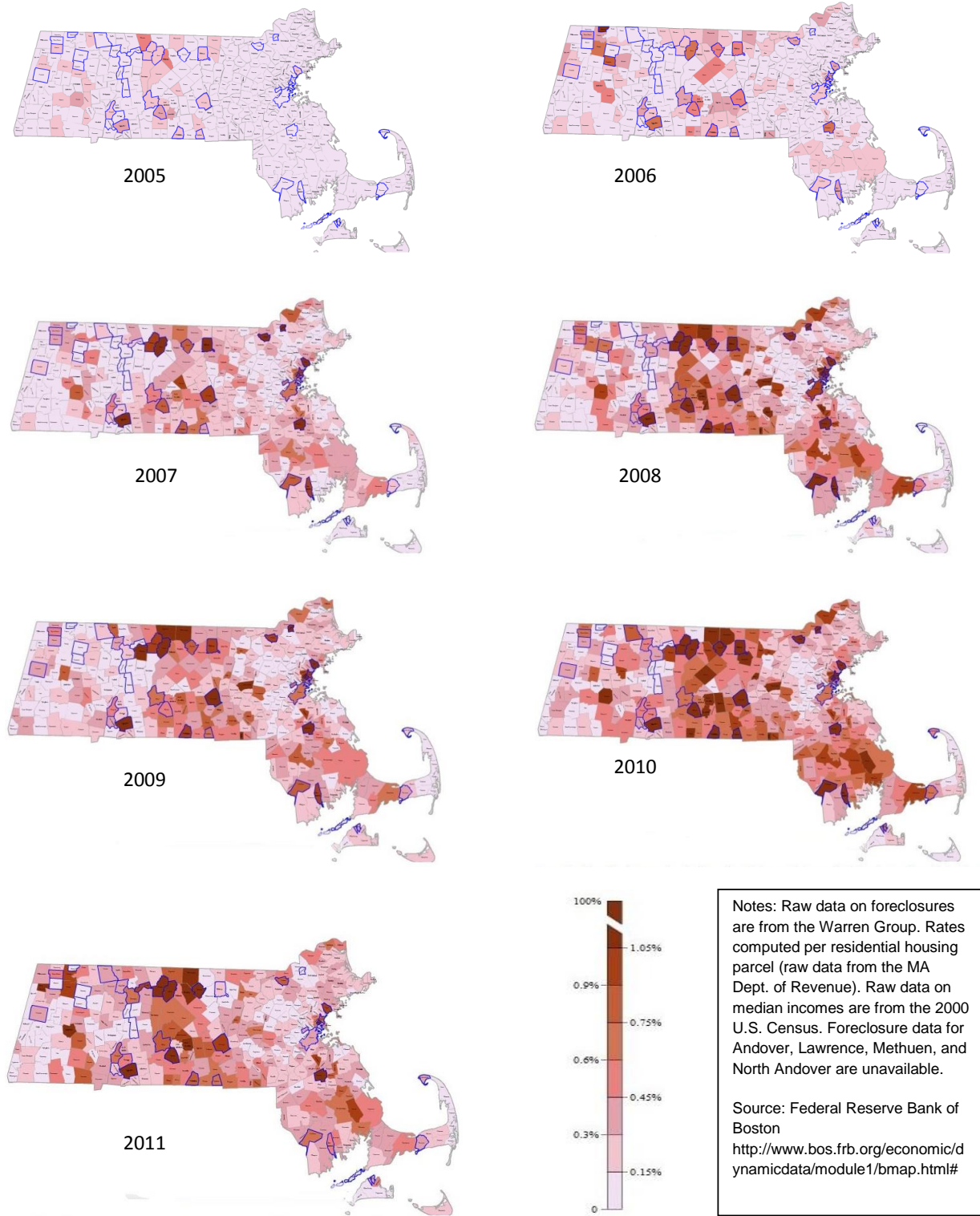


Figure 4.5: Foreclosure Rates in Massachusetts



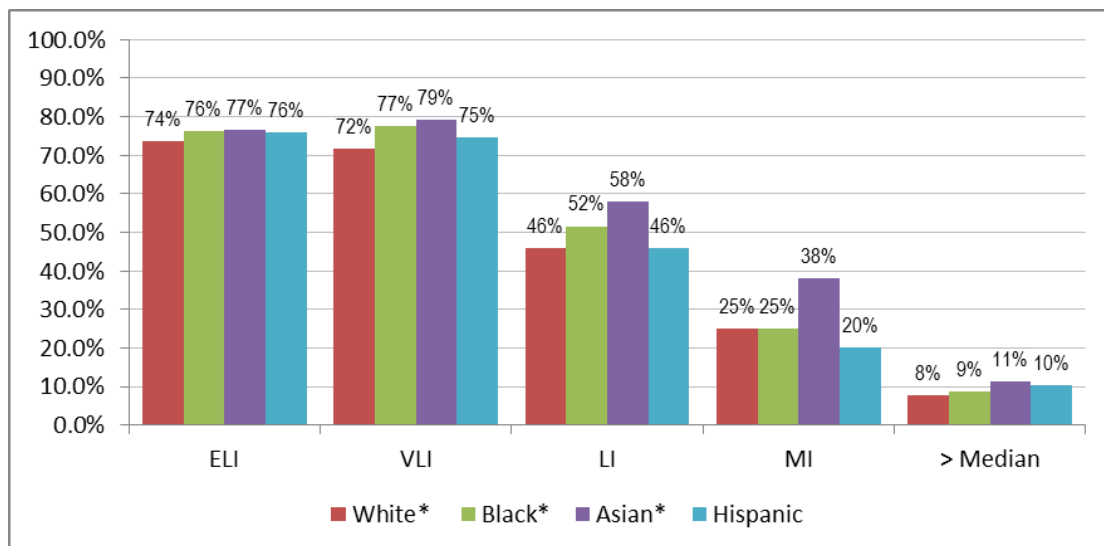
Disparate impact of other housing problems

Other housing problems – most often in the form of high cost burdens –pose a challenge for low income owners and renters in all racial/ethnic groups, but some fare worse than others. **Figure 4.7** shows that among extremely low and very low income renters, all racial/ethnic categories experienced housing problems at roughly the same high rate, approximately 75 percent. Moving up the income scale, the share of renters with problems drops for all groups but the differential becomes more pronounced, with Asians experiencing problems substantially higher rate than other groups.

A similar pattern is evident with homeowners, but a higher percentage of them experience cost burdens or other problems at every income level. More than 92 percent of extremely low income homeowners reported cost burdens or other problems and, even among moderate income owners, nearly half reported problems. Among owners, Blacks and Latinos experienced housing problems at a higher rate than their Asian and White counterparts at every income level, as **Figure 4.8** documents.

Another indication of disparate impact of housing problems on families of color is evident in the detailed waiting list DHCD maintains for the housing voucher programs it administers. The most recent list, dated June 30, 2012, appears as Table 2.12 in Section 2. Of the 72,000 households on the list, Hispanics and Whites represented the largest racial/ethnic groups (at 35% and 34.9%, respectively). Blacks represented 21.4 percent, and Asians, 2.2 percent. (Black, White and Asian totals are for non-Hispanic members of those races.)

Figure 4.7: Summary of Renter Housing Problems by Race and Ethnicity

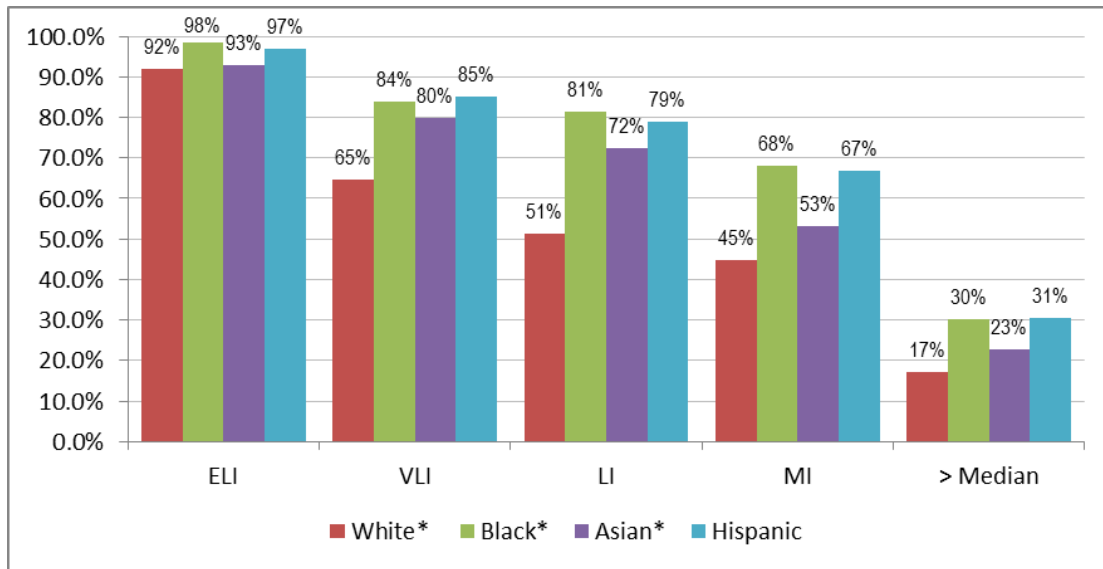


* Non Hispanic

** Excludes those where cost burden was not calculated but there were no other problems (<0.5% of all)

Source: 2009 CHAS Table 1, based on 2005-2009 American Community Survey

Figure 4.8: Summary of Owner Housing Problems by Race and Ethnicity



* Non Hispanic

** Excludes those where cost burden was not calculated but there were no other problems (<0.5% of all)

Source: 2009 CHAS Table 1, based on 2005-2009 American Community Survey

5. Segregation and Integration

As Section 2 documented, the Commonwealth’s racial and ethnic minority groups are more likely to have lower incomes and experience higher rates of poverty than their non-Hispanic White counterparts. These income differences, however, do not explain the persistent patterns of residential segregation.

Segregation can result from many factors, including the voluntary choices people make about where they want to live or involuntary limitations resulting from discrimination in the housing market or from a lack of information about the residential opportunities available to them. Regardless of its cause, residential segregation contributes to persistent disparities in education, employment, and wealth. This section examines segregation, and integration, within the seven Benchmark regions and statewide using several different metrics. It also looks at long term segregation trends in Massachusetts’ four metro areas – Boston, Springfield, Worcester, and Providence – and how they compare with the nation’s other large metro areas.⁹⁰

Racial Separation and Concentration in Massachusetts Communities: Who Lives Where

Non-Hispanic Whites are now the minority population in eight Massachusetts cities and towns, including Boston. The other seven are Brockton, Chelsea, Holyoke, Lawrence, Lynn, Randolph, and Springfield. Measured by households, four municipalities are majority minority: Chelsea, Lawrence, Randolph, and Springfield. (Table 5.1 shows how the breakdown by race/ethnicity shifts depending on whether one counts people, households, or just those people living in households.)

Table 5.1: Massachusetts Communities Where Residents of Color Constitute the Majority

Geography		Total			Majority Minority			% Minority		
Region	Municipality	Total Population	Population in Households	Total Households	Total Population	Population in Households	Total Households	Total Population	Population in Households	Total Households
Boston	Chelsea	35,177	34,495	11,831	Y	Y	Y	74.8%	76.0%	62.4%
Boston	Randolph	32,112	31,781	11,551	Y	Y	Y	60.9%	61.2%	51.4%
Northeast	Lawrence	76,377	75,475	25,181	Y	Y	Y	79.5%	80.0%	70.8%
Pioneer Valley	Springfield	153,060	147,383	56,752	Y	Y	Y	63.3%	64.7%	56.1%
Boston	Boston	617,594	571,380	252,699	Y	Y		53.0%	54.4%	45.6%
Boston	Lynn	90,329	89,494	33,310	Y	Y		52.4%	52.7%	40.1%
Pioneer Valley	Holyoke	39,880	38,495	15,361	Y	Y		53.2%	54.4%	44.9%
Southeast	Brockton	93,810	92,042	33,303	Y	Y		57.1%	57.7%	48.2%

Source: 2010 Decennial Census

Nearly 70 percent of the state’s Black households and 62 percent of Latino households resided in just ten municipalities in 2010. The region’s Asian households are somewhat more dispersed, with the top ten communities embracing 51 percent of all Asian households. White households are considerably more dispersed throughout the Commonwealth. Table 5.2 identifies the top ten communities for each of the

⁹⁰ Some data are available only at the county, or metro, level. The Boston, Springfield and Worcester metros are substantially similar to the combined Boston-Northeast Benchmark Region, the Pioneer Valley Region and the Central Region. The Providence metro includes Massachusetts’ Bristol County (the Southeast Region) along with the entire state of Rhode Island.

major racial/ethnic groups. Only three cities – Boston, Worcester and Lowell – were among the top ten for all four groups.

Table 5.2: Top Ten Massachusetts Communities for Major Racial and Ethnic Groups

Black Households		Hispanic Households		Asian Households		White Households	
Boston	36.8%	Boston	18.8%	Boston	19.0%	Boston	6.7%
Springfield	8.2%	Springfield	10.1%	Quincy	6.4%	Worcester	2.2%
Brockton	6.1%	Lawrence	9.0%	Lowell	4.8%	Fall River	1.6%
Worcester	4.7%	Worcester	6.3%	Cambridge	4.6%	Cambridge	1.5%
Cambridge	3.2%	Lynn	4.2%	Malden	3.5%	Quincy	1.5%
Lynn	2.7%	Holyoke	3.4%	Brookline	3.2%	New Bedford	1.4%
Randolph	2.6%	Chelsea	3.2%	Worcester	2.9%	Newton	1.3%
Malden	2.0%	Lowell	3.1%	Newton	2.7%	Springfield	1.2%
Lowell	1.6%	New Bedford	2.5%	Somerville	2.0%	Somerville	1.2%
New Bedford	1.5%	Revere	1.9%	Waltham	1.8%	Lowell	1.2%
<i>Total in Top 10</i>	<i>69.3%</i>		<i>62.4%</i>		<i>51.1%</i>		<i>19.7%</i>

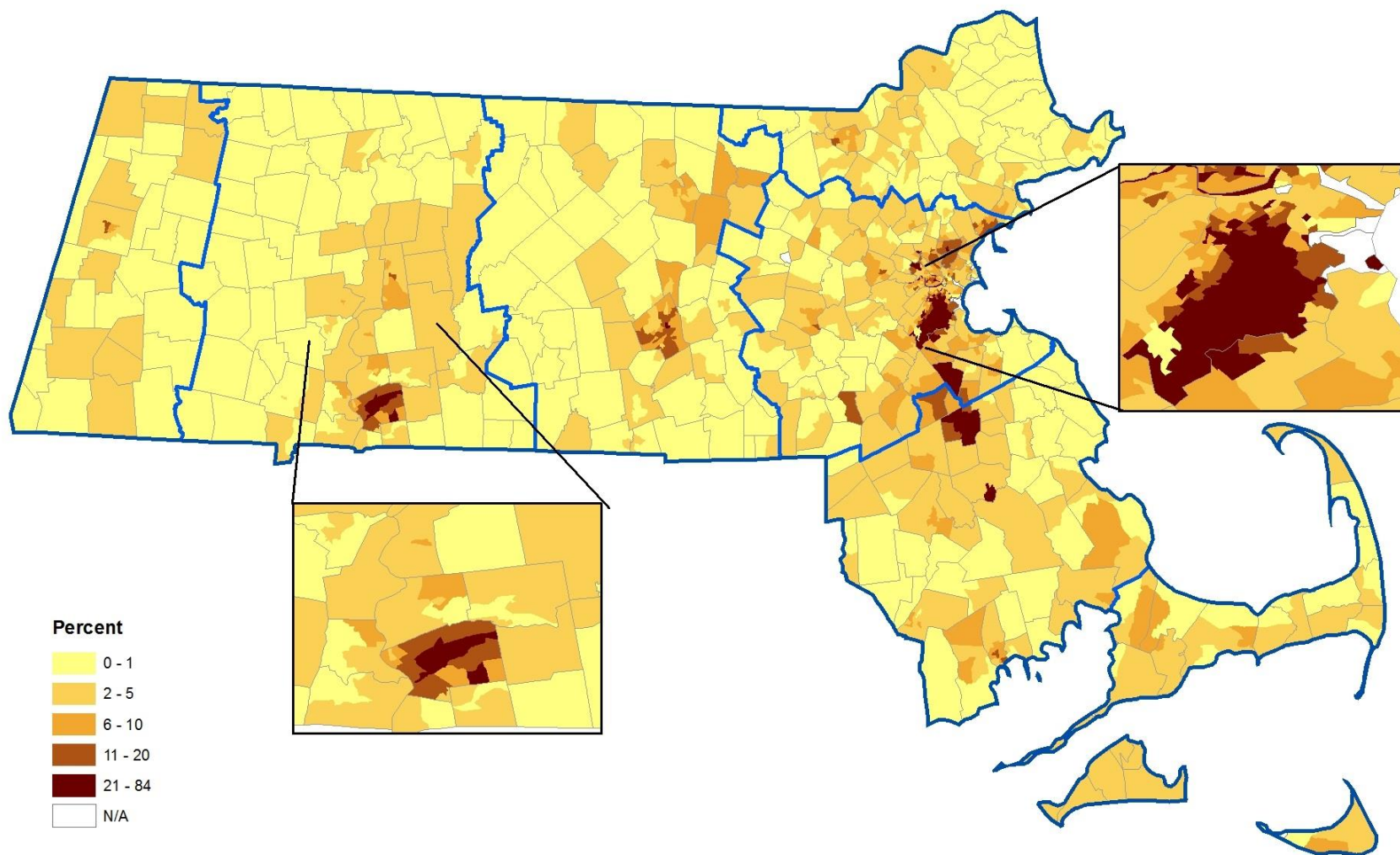
Source: 2010 Decennial Census

Nearly 36 percent of all non-Hispanic White households live in communities (236 of them) where fewer than 3 percent of all households are headed by a Black or Latino. More than 55 percent live in one of the 287 communities where fewer than 5 percent of households are Black and Latino. The 236 “3 percent” communities constitute over 70 percent of the Commonwealth’s landmass; the 287 “5 percent” communities, 85 percent. As a result, there is limited opportunity for interaction in the community setting among people of different races or ethnic background. Since schools systems are local – in a few cases, regional systems serve similar neighboring towns – the schools reflect the racial and ethnic composition of the city or town. While the workplace has become more diverse over time, offering adult workers an opportunity to engage with people of different backgrounds, colors and cultures, the same cannot be said of many school districts, and the racial isolation among the Commonwealth’s children is more pronounced.

The series of Maps on the following pages illustrate quite dramatically how segregated the Commonwealth’s communities are, especially for Blacks and Hispanics. **Map 5.1** illustrates the share of the Black population by census tract; **Map 5.2**, the Hispanic population; **Map 5.3**, the Asian population; and **Map 5.4**, the White population. The maps depicting the Black, White and Asian populations include members of those races alone; they do not include Hispanic members of those races. The Hispanic map includes Hispanics of all races.

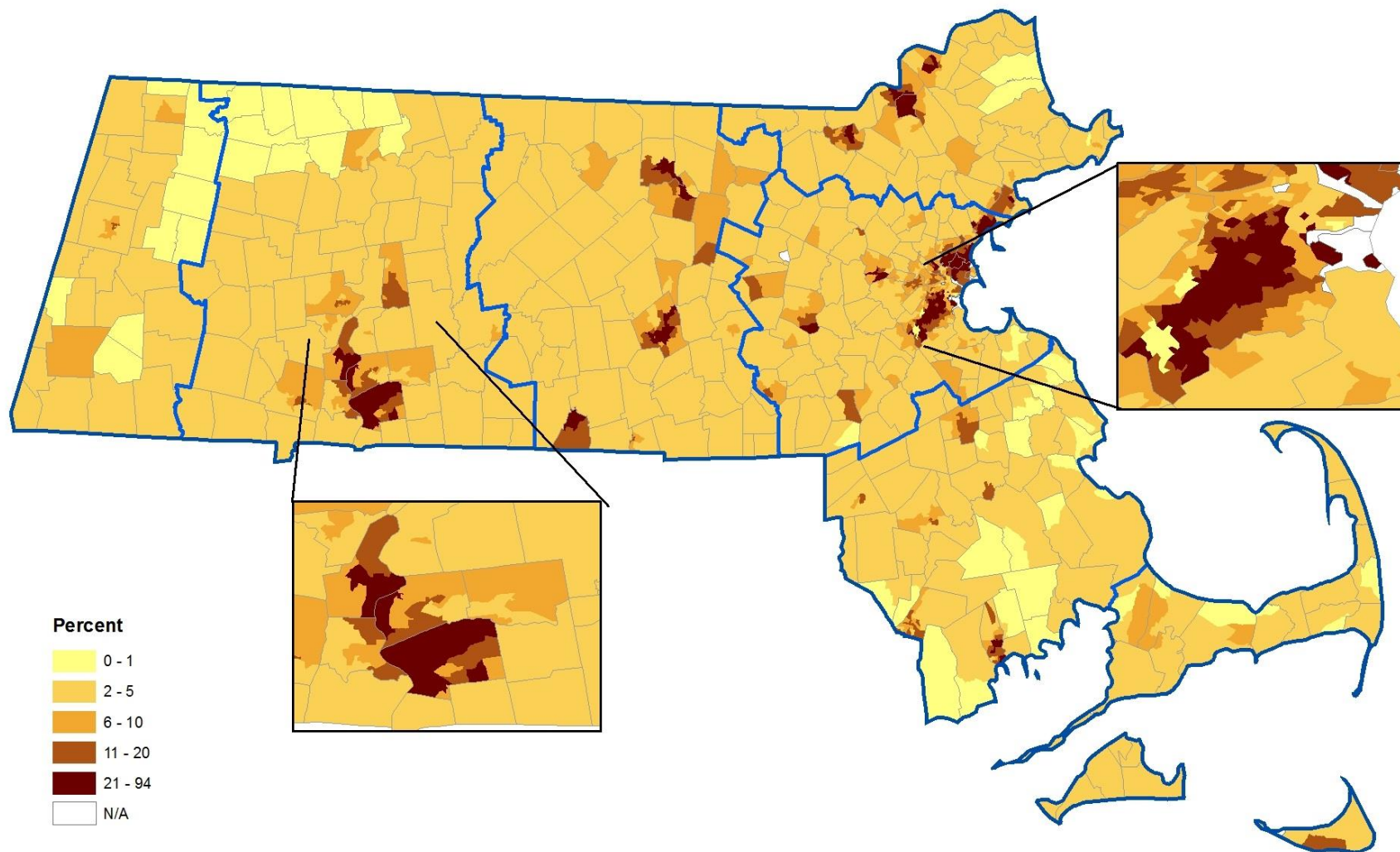
Even within the state’s largest and most diverse city, Boston, a similar pattern is evident. The City’s *2010 Analysis of Impediments to Fair Housing* reported that more than 30 percent of the city’s White homeowners lived in census tracts where fewer than 2.5 percent of their (home owning) neighbors were Black or Latino.

Map 5.1: Black Share of the Population



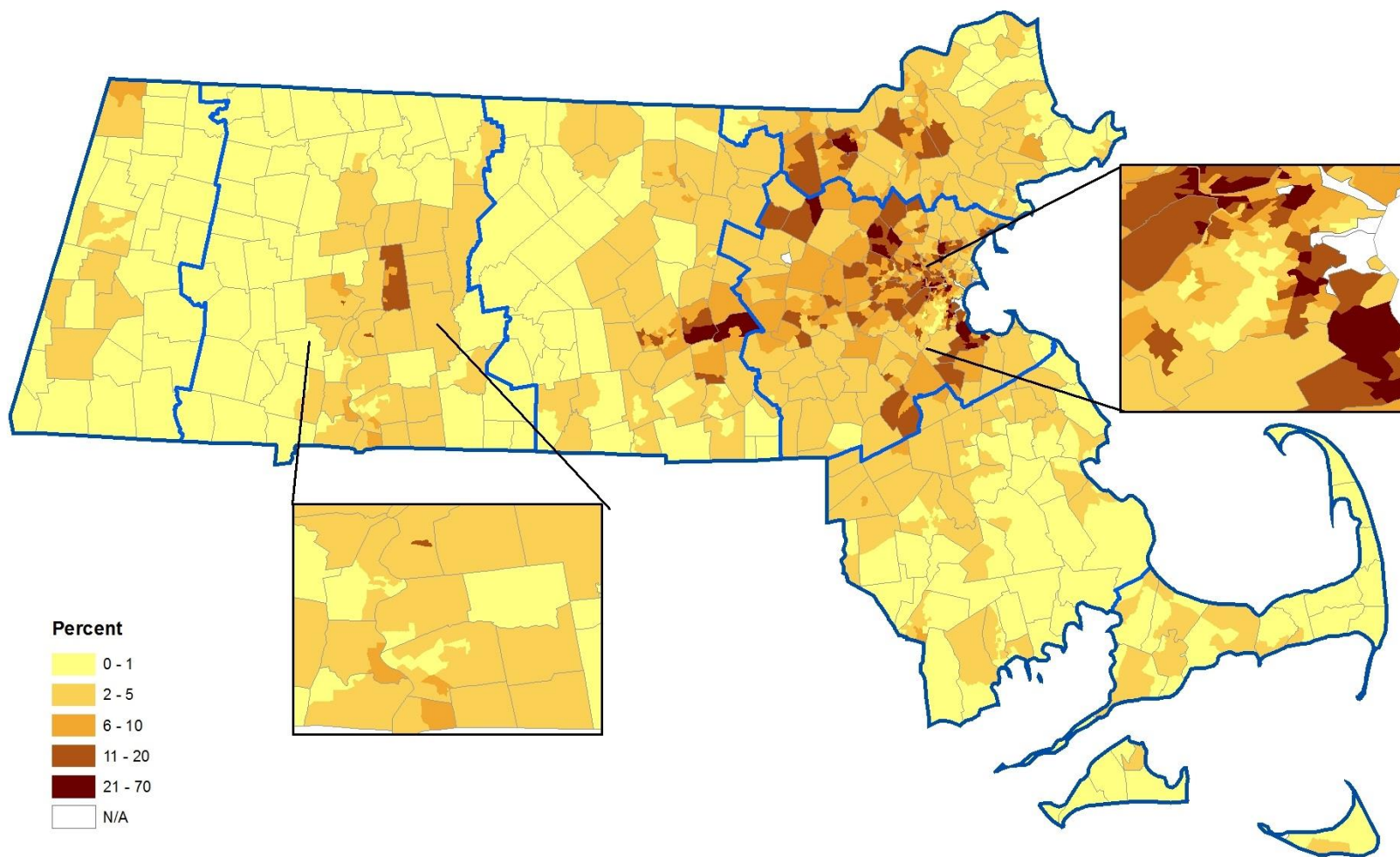
Notes: Share of population is shown by census tract; outlined areas denote municipal boundaries. Based on 2010 census tracts.
Does not include Black Hispanics.
Source: 2010 Decennial Census

Map 5.2: Hispanic Share of the Population



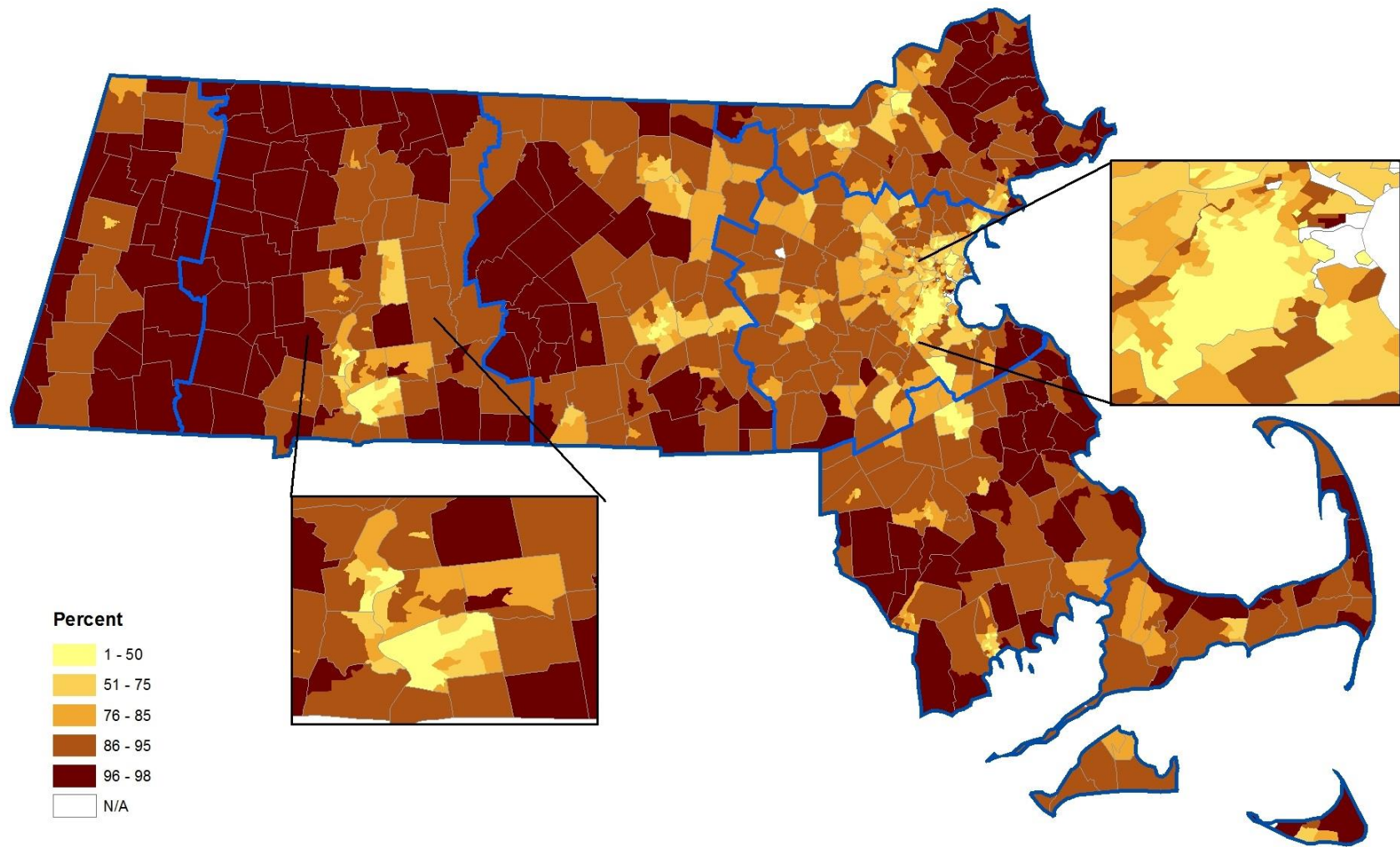
Notes: Share of population is shown by census tract; outlined areas denote municipal boundaries. Based on 2010 census tracts. Includes Hispanics of all races.
Source: 2010 Decennial Census

Map 5.3: Asian Share of the Population



Notes: Share of population is shown by census tract; outlined areas denote municipal boundaries. Based on 2010 census tracts.
Does not include Asian Hispanics.
Source: 2010 Decennial Census

Map 5.4: White Share of the Population



Notes: Share of population is shown by census tract; outlined areas denote municipal boundaries. Based on 2010 census tracts.
Does not include White Hispanics.
Source: 2010 Decennial Census

Patterns of Segregation in Major Massachusetts Metro Areas Since 1990

The U.S. Census Bureau uses five dimensions of population distribution to measure racial and ethnic segregation within a given area. These include:

- *evenness*, which refers to the spatial distribution of different racial and ethnic groups within a metropolitan area;
- *exposure*, which measures the degree of potential contact, or the possibility of day-to-day interaction, between different racial and ethnic groups;
- *clustering*, which describes the extent to which different populations live in segregated enclaves, spatially disparate from one another;
- *centralization*, which indicates the degree to which a particular group is located near the center of an urban area; and
- *concentration*, referring to the relative amount of physical space occupied by a group of people.

(These measures are discussed more fully in **Inset 5.1**.)

The dissimilarity index is the most common summary measure of the extent to which the distribution of two racial/ethnic groups differs across geographies. **Table 5.3** documents the trends in racial segregation in the Boston, Worcester, Springfield, and Providence metro areas since 1990, using a dissimilarity index calculated by William Frey of the University of Michigan, one of the nation's foremost experts on demographics. The index measures the degree to which the major non-White groups are distributed differently than Whites across census tracts. Values range from 0 (complete integration) to 100 (complete segregation) with the value indicating the percentage of the minority group that would need to move to be distributed exactly like the White population. A value of 60 or greater is generally considered indicative of a very high level of segregation. It means that at least 60 percent of the members of one group would need to move to a different census tract in order for the two groups to be equally distributed. Values of 40 to 50 are usually considered indicative of a moderate level of segregation, and values of 30 or below are considered to be fairly low.

While the table documents some improvement since 2000, there remain high levels of residential segregation between Blacks and Whites and Hispanics and Whites, especially in the Boston and Springfield metro areas. Asians are considerably less segregated than Blacks or Hispanics, and their segregation levels have also shown modest improvement since 2000. This improvement notwithstanding, Massachusetts metro areas remain among the most segregated of the nation's 100 largest metros (those with populations of 500,000 or more). In 2010, Springfield ranked as the most segregated metro area in the country for Hispanics, with Providence #2 and Boston #4.

The series of pie charts presented in **Figure 5.1** (Figure X), which document the racial/ethnic change since 1980 in the cities of Springfield and Holyoke compared to the balance of the metro area, help explain why that region is so segregated today. The White population of Springfield and Holyoke dropped by nearly 75,000 during the past thirty years as the Black and Latino population rose by nearly 67,000. The White population did not drop overall, however; it increased in the metro area's other 67 communities by nearly 68,000. Nearly 68 percent of the Black and Latino population growth occurred in Springfield and Holyoke.

Inset 5.1: Measures of Racial Separation and Concentration

The U.S. Census Bureau uses five dimensions of population distribution to measure racial and ethnic segregation, and within each of these dimensions social scientists employ a variety of segregation measures. Among the most common indices for measuring racial separation and concentration are the following:

- *Evenness* refers to the spatial distribution of different racial and ethnic groups within a metropolitan area. It is most commonly measured by a dissimilarity index that measures the degree to which a minority group is distributed differently than the majority group (non-Hispanic Whites) across geographic units such as census tracts, neighborhoods or municipalities. The dissimilarity index, which ranges from 0 (complete integration) to 1 (complete segregation), indicates the percentage of the minority group that would need to move to be distributed exactly like the majority population.
- *Exposure* measures the degree of potential contact, or the possibility of day-to-day interaction, between different racial/ethnic groups. The two related measures of exposure are interaction and isolation. The former measures the exposure of minority group members to members of the majority group while the latter measures the degree to which minority members are exposed only to one another. When measuring two groups, the isolation and interaction indexes sum to 1.0, with lower values of interaction and higher values of isolation both indicating higher levels of segregation.
- *Clustering* measures the extent to which minority and majority populations live in segregated enclaves, spatially disparate from one another. It is most often captured with an index of spatial proximity. The spatial proximity index equals 1 when there is no differential clustering between minority and majority populations. It is greater than 1.0 when members of each group live nearer to one another than to members of the other group, and is less than 1.0 if minority and majority members live nearer to members of the other group than to members of their own group.
- *Centralization* indicates the degree to which a particular group is located near the center of an urban area. The most commonly used measurement, the absolute centralization index, varies between -1.0 and 1.0, where a positive value indicates the tendency of group members to reside close to the urban core. A negative value indicates a tendency to live in outlying areas, and a score of 0 means that the group is uniformly distributed throughout the metropolitan area.
- *Concentration* refers to the relative amount of physical space occupied by a group of people. The most common measure of concentration, the delta index, depicts differences in population densities experienced by people of different races. The delta index also varies from 0 to 1, and measures the proportion of a group's population which would have to move across neighborhoods to achieve a uniform density across a metropolitan area.*

Racial and Ethnic Residential Segregation in the United States: 1980-2000, by John Iceland and Daniel H. Weinberg with Erika Steinmetz, U.S. Census Bureau (2002).

(Inset 5.1 continued)

The table below documents the long term trends in racial segregation in the Boston metro area between 1980 and 2000 using these measures for each of the five dimensions. It is based on a 2002 study by the U.S. Census Bureau of major metro areas. (Boston was the only Massachusetts metro included in the study.) In sum, while segregation diminished to some extent during the two decades between 1980 and 2000, at the time of the 2000 Census it persisted at very high levels, especially for Blacks and Latinos, and the area remained among the most segregated regions among the largest 100 metropolitan areas in the nation.

Long Term Trends in Segregation in the Boston Metro Area

Residential Segregation Measures at the MSA Level*	Year	Black, N=43	Metro Rank, 1=most	Hispanic, N=36	Metro Rank, 1=most	Asian, N=30	Metro Rank, 1=most
Dissimilarity Index (evenness)	1980	0.763	20	0.553	10	0.482	3
	1990	0.693	25	0.547	11	0.439	7
	2000	0.658	22	0.587	9	0.448	7
Isolation Index (exposure)	1980	0.594	25	0.219	21	0.133	8
	1990	0.543	25	0.264	22	0.110	13
	2000	0.504	27	0.330	24	0.163	15
Delta Index (concentration)	1980	0.861	27	0.759	24	0.711	14
	1990	0.835	26	0.764	18	0.710	13
	2000	0.812	28	0.779	18	0.700	13
Absolute Centralization Index (centralization)	1980	0.877	14	0.761	18	0.805	7
	1990	0.855	16	0.746	21	0.781	7
	2000	0.825	15	0.749	15	0.760	8
Spatial Proximity Index (clustering)	1980	1.475	13	1.077	20	1.041	8
	1990	1.469	10	1.109	22	1.062	11
	2000	1.444	13	1.160	21	1.067	12
Average 2000 Rank		21		17.4		11	
Rank of Averaged 2000 Ranks		17		20		11	

Notes: Analysis based on Boston MA-NH PMSA. Metro area rank, where 1 = the highest level of segregation, is based on 43 metro areas in the Black analysis, 36 metros in the Hispanic analysis and 30 in the Asian analysis. Metropolitan Areas included in the study were those with a 1980 total population of 1 million or more with at least 3 percent of the population (or at least 20,000 residents) in the racial/ethnic group being measured. Boston refers to the Boston MA-NH PMSA.

Source: *Racial and Ethnic Residential Segregation in the United States: 1980-2000* by John Iceland and Daniel H. Weinberg with Erika Steinmetz, U.S. Census Bureau, (2002)
http://www.census.gov/hhes/www/housing/housing_patterns/housing_patterns.html

Table 5.3: Long Term Trends in Segregation in Massachusetts Metro Areas

Rank (2010)	Name	Black-White						2010	
		1990	2000	2010	Change 1990-2000	Change 1990-2010	Change 2000-2010	Total Population	Share NH Black
22	Springfield, MA	68.5	67.2	65.3	-1.4	-3.3	-1.9	692,942	5.8%
27	Boston-Cambridge-Quincy, MA-NH	68.5	67.6	64.0	-0.9	-4.5	-3.5	4,552,402	6.6%
57	Providence-New Bedford-Fall River, RI-MA	60.5	57.2	53.5	-3.2	-7.0	-3.8	1,600,852	4.2%
61	Worcester, MA	51.4	52.6	52.6	1.2	1.2	0.0	798,552	3.6%
Rank (2010)	Name	White-Hisp						2010	
		1990	2000	2010	Change 1990-2000	Change 1990-2010	Change 2000-2010	Total Population	Share Hisp
1	Springfield, MA	64.3	64.1	63.4	-0.2	-0.9	-0.7	692,942	15.4%
4	Providence-New Bedford-Fall River, RI-MA	57.9	64.5	60.1	6.6	2.3	-4.3	1,600,852	10.2%
5	Boston-Cambridge-Quincy, MA-NH	59.3	62.5	59.6	3.2	0.3	-2.9	4,552,402	9.0%
17	Worcester, MA	55.1	55.9	52.7	0.8	-2.5	-3.3	798,552	9.4%
Rank (2010)	Name	White-Asian						2010	
		1990	2000	2010	Change 1990-2000	Change 1990-2010	Change 2000-2010	Total Population	Share NH- Asian
22	Worcester, MA	38.6	45.3	45.8	6.7	7.2	0.5	798,552	4.0%
23	Boston-Cambridge-Quincy, MA-NH	45.5	47.8	45.4	2.3	-0.2	-2.5	4,552,402	6.4%
55	Providence-New Bedford-Fall River, RI-MA	47.0	44.1	40.1	-2.9	-6.9	-4.0	1,600,852	2.5%
57	Springfield, MA	43.9	44.1	39.9	0.2	-4.0	-4.2	692,942	2.4%

Source: William H. Frey, Brookings Institution and University of Michigan Social Science Data Analysis Network's analysis of 1990, 2000, and 2010 Census Decennial Census tract data.

Examining Race and Income in Massachusetts Regions Using HUD Methodologies

HUD also developed a dissimilarity index at the metropolitan, or regional, level for agencies participating in its Sustainable Communities Regional Planning Grant program. (See **Inset 5.2** for a description of the Sustainable Communities program and the four participating Massachusetts agencies.) Even though it encompasses different geographies, the HUD index shows results similar to Frey's. The HUD findings, depicted in **Table 5.4** are based on all cities and towns in Berkshire and Franklin Counties (Berkshire Regional Planning Commission and Franklin Country Regional Council of Governments), the 101 greater Boston communities served by the Metropolitan Area Planning Council and all 43 Hampden and Hampshire county municipalities, served by the Pioneer Valley Regional Planning Commission. Also included with the Hampden and Hampshire County communities in this table are 30 Connecticut cities and towns served by the Capitol (Hartford) Region Council of Governments.

Table 5.4: Long Term Trends in Segregation in Massachusetts Metro Areas

	White-Non- White*	White-Black	White-Hispanic	White-Asian	White-Pacific Islander	White-Native American
Berkshire Regional Planning Commission	0.33	0.52	0.38	0.54	NA	NA
Capitol Region Council of Governments	0.56	0.68	0.63	0.45	NA	NA
Franklin Regional Council of Governments	0.25	NA	0.38	0.53	NA	NA
Metropolitan Area Planning Council	0.47	0.65	0.57	0.43	NA	NA

Source: HUD Sustainable Communities datasets

Inset 5.2: Sustainable Communities and Fair Housing Equity

Early in his first administration, President Obama established the Partnership for Sustainable Communities to promote healthier, sustainable communities of opportunity by coordinating federal housing, transportation, water, and other infrastructure investments. The partners are U.S. Departments of Housing and Urban Development (HUD), Transportation (DOT) and the Environmental Protection Agency (EPA), and their expressed goal was to coordinate federal investments in infrastructure, facilities, and services to meet multiple economic, environmental, and community objectives with each dollar spent. The agencies adopted six livability principles to guide their funding decisions, policies, and legislative agenda (see sidebar).

HUD established two grant programs to support the Sustainable Communities initiative: Sustainable Communities Regional Planning Grant Program (SCRPG) and the Community Challenge Grant Program. The goal of the Regional Planning grants is to help communities and regions improve their economic competitiveness by connecting housing with good jobs, quality schools and transportation, while the purpose of the Community Challenge Grants is to reform and reduce barriers to achieving affordable, economically vital and sustainable communities. Several Massachusetts communities and planning agencies have been the recipients of funding under both of these programs during the first three years of funding including four regional planning agencies.

Four Massachusetts Regional Planning Agencies received SCRPGs: the Metropolitan Area Planning Council, the Berkshire Regional Planning Commission, the Franklin County Regional Council of Governments, and the Pioneer Valley Planning Commission, the latter in partnership with the Hartford, CT Capitol Region Council of Governments. Together these four grants cover 265 of Massachusetts' 351 cities and towns and 81 percent of the population. They include the cities and towns where 84 percent of the state's Latino population lives, 89 percent of the Black population and 91 percent of the Asian population.

Equity and access to opportunity are critical underpinnings of the Sustainable Communities initiative, and the Regional Planning Grants encourage metropolitan and multi-jurisdictional planning efforts to consider the challenges of social equity, inclusion, and access to opportunity. As a condition of their participation in the program, the grantees were required to complete a Fair Housing and Equity Assessment (FHEA) or regional Analysis of Impediments to Fair Housing (AI). The guidance and resources provided by HUD to these grantees and the work of the planning agencies themselves have proved invaluable to the Department of Housing and Community Development in its preparation of this updated Massachusetts Analysis of Impediments to Fair Housing.

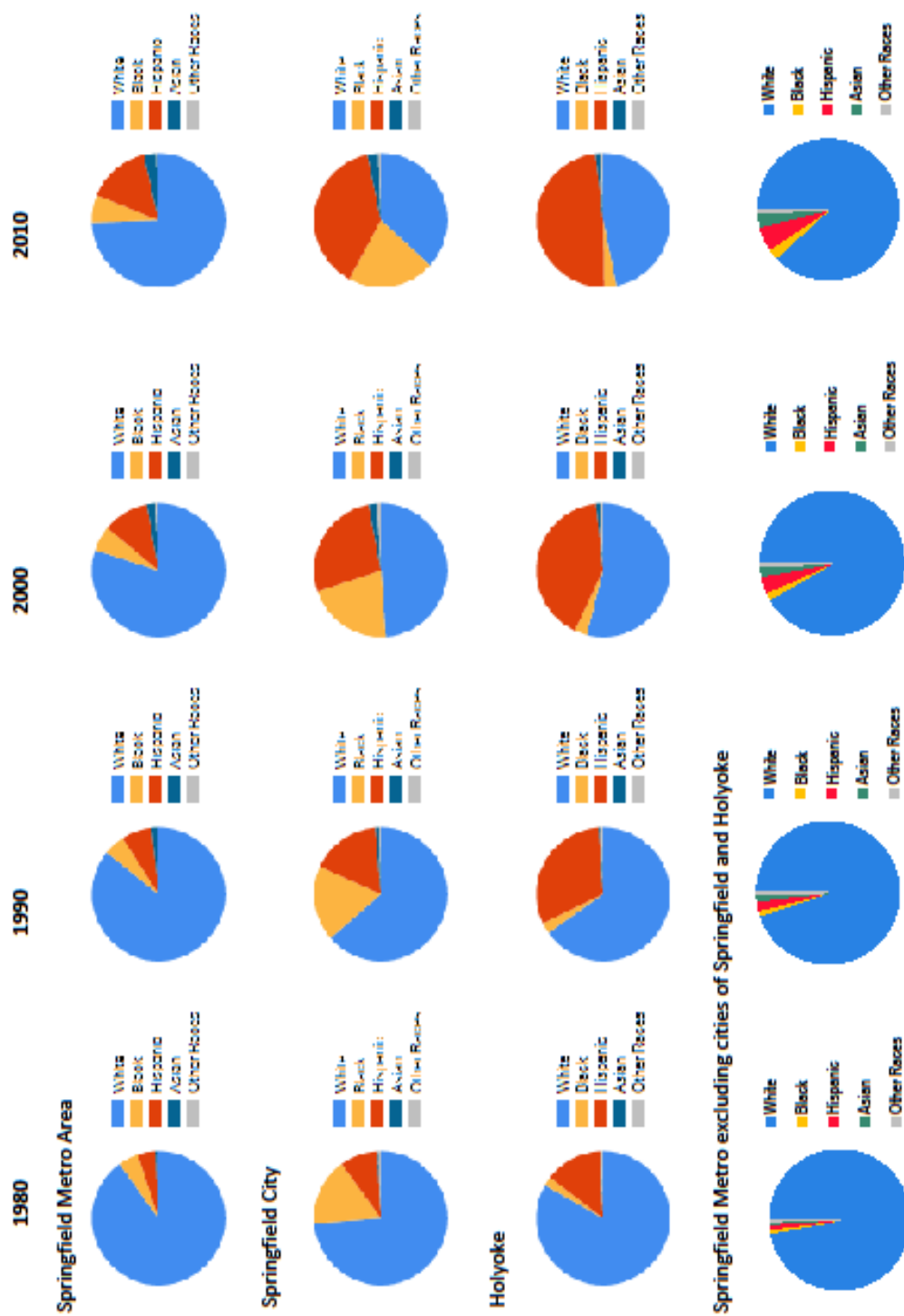
HUD uses a slightly different standard to interpret its results: a dissimilarity index of 55 or greater indicates a high level of segregation while indices between 41 and 54 indicate a moderate level and an index of 40 or lower represents a low level of segregation. According to this classification system, the Boston metro area shows a high degree of segregation between Whites and Blacks and Whites and Hispanics, and a moderate level of segregation between Whites and Asians. The level of segregation between Whites and Asians in Franklin County is moderate; between other groups, low. In the Hartford-Springfield region, there is a high level of segregation between Blacks and Whites and Hispanics and Whites and a moderate level between Asians and Whites. And in the Berkshires, the level of segregation between Whites and Blacks as well as between Whites and Asians is moderate.

In addition to its dissimilarity index, HUD developed three other tools for examining race and income as part of its Sustainable Communities Regional Planning Program: a census tract-based definition of racially/ethnically-concentrated areas of poverty (called RCAPs), a predicted versus actual racial/ethnic composition ratio and a fair share affordable housing index. While not traditional measures of segregation, each of these tools is useful for determining whether access limitations are associated with race or economic considerations, and DHCD has replicated them here for each of the state's seven major economic regions.⁹¹

⁹¹ The HUD datasets provided to the Sustainable Communities grantees were based on the 2005-2009 American Community Survey and the ACS-based Comprehensive Housing Affordability Strategy (CHAS) data. We used the same CHAS income classifications but the more recent 2006-2010 ACS to replicate the HUD analyses for the seven Benchmark regions. The 2010 Decennial Census revealed that the 2005-2009 5-Year ACS, and the CHAS estimates of need that were based on it, underestimated the number of renter occupied housing units in Massachusetts by more than 11 percent. The underestimate is across the board and does not appear to distort the regional distribution or breakdown by household type significantly. By all indications the state did lose thousands of rental units during the first part of the decade and this loss continued through 2007. Since 2008, however, the state has gained renter households and has continued to gain renters since 2010. The ACS estimates of owner housing and total units were much closer to the 2010 Census count.

	2000 Census	2005-2009 ACS	2010 Census	2005-2009 ACS Over/Underestimate	
				Number	Percent
Total Occupied Units	2,443,580	2,465,635	2,547,075	-81,440	-3.3%
Owner Units	1,508,052	1,601,765	1,587,158	14,607	0.9%
Renter Units	935,528	863,877	959,917	-96,040	-11.1%

Figure X: Racial Change in the Springfield Metro Area , 1980-2010



Source: ©Spatial Structures in Social Sciences, Brown University, prepared as part of the US2010 research project with support from the Russell Sage Foundation

Significant disparities in rates of poverty and income levels are indeed correlated with race, as Chapter 2 documented. However, a number of studies have concluded that economic disparities alone do not explain segregation. In a 2003 study, *Beyond Poverty: Race and Concentrated-Poverty Neighborhoods in Metro Boston*, Nancy McArdle and her colleagues at The Civil Rights Project (then at Harvard University) concluded that Blacks and Hispanics, in particular, were far more likely to live in high poverty areas than Whites with the same incomes. The study noted that while there are many poor White families in Massachusetts, they did not live in the communities where poor Blacks and Hispanics lived, for the most part. And, while the state had a growing number of relatively affluent Blacks and Hispanics, they had located in significant numbers in only a handful of suburban communities.⁹²

That conclusion was reinforced the following year by McArdle and David Harris in *More than Money: The Spatial Mismatch Between Where Homeowners of Color in Metro Boston Can Afford to Live and Where They Actually Reside*. The authors found that Black and Latino home buyers did have lower incomes, on average, than White and Asian buyers but that affordability alone could not explain persistent patterns of residential segregation.⁹³

Predicted versus Actual Racial/Ethnic Make-up of Massachusetts Communities

The metrics used by the Census Bureau to measure racial and ethnic segregation (described above and in Inset 3.1) are useful for assessing patterns of segregation across regions and for monitoring change over time, but most are size sensitive and have little meaning for very small geographic units, or geographies where there are very few residents in a specific racial/ethnic group. This limits their utility since most Massachusetts cities and towns have too few census tracts and/or racial/ethnic minority groups for a dissimilarity index to be effectively applied. The predicted versus actual racial/ethnic make-up of each municipality put forth by HUD is a useful alternative.

Predicted – or expected – values are based on the region’s income distribution by race. The predicted value for a racial or ethnic group in a jurisdiction is calculated as the number of households the jurisdiction has in a given income category multiplied by the racial/ethnic group’s share of that income group for the region. The totals are summed to determine the predicted number of each racial/ethnic group in the jurisdiction. This total is then compared with the actual number to ascertain actual to predicted ratio. Ratios near or greater to 1 indicate that the jurisdiction is close to its predicted level of racial/ethnic minority composition. Those far less than 1 show that the jurisdiction has many fewer racial/ethnic minority groups than one might expect given income levels.

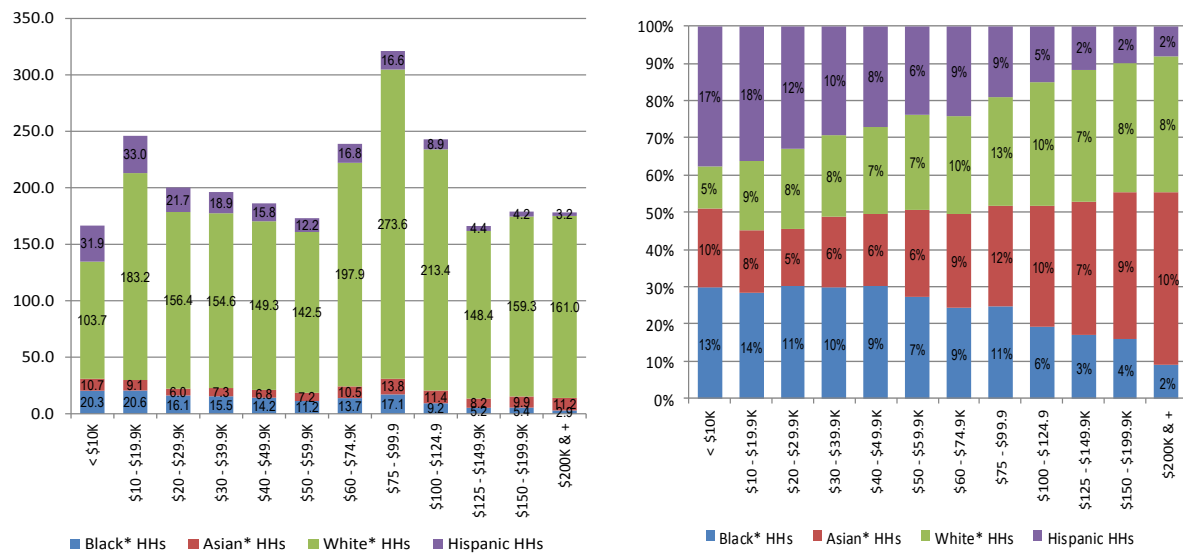
Figure 5.2 illustrates the basis for this methodology. The graph on the left in the figure shows the distribution of Massachusetts households by income, with the color coding indicating each of the major racial/ethnic groups’ share of all households in that income band. The figure on the right translates that

⁹² <http://civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/metro-boston-equity-initiative-1/beyond-poverty-race-and-concentrated-poverty-neighborhoods-in-metro-boston/mcardle-beyond-poverty-boston-2003.pdf>

⁹³ <http://civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/metro-boston-equity-initiative-1/more-than-money-the-spatial-mismatch-between-where-homeowners-of-color-in-metro-boston-can-afford-to-live-and-where-they-actually-reside>

information into percentages, illustrating what percent of each racial/ethnic group falls into the different income bands. This figure shows that while 13 percent of Black and 17 percent of Latino households earn less than \$10,000 annually, only 2 percent (of those group) earns over \$200,000. Thus, a low income community like Lawrence, where nearly 18 percent of households earn less than \$10,000, would be expected to have more Latino and Black residents than Mendon, where just 2 percent of households earn below \$10,000.

Figure 5.2: Massachusetts Household Distribution by Income and Race/Ethnicity



Source: 2009-2011 American Community Survey, Table B19001

Table 5.5 shows how HUD interprets the results of the Predicted Versus Actual Racial/Ethnic Composition Ratio, the Fair Share Affordable Housing Index and the Dissimilarity Index.

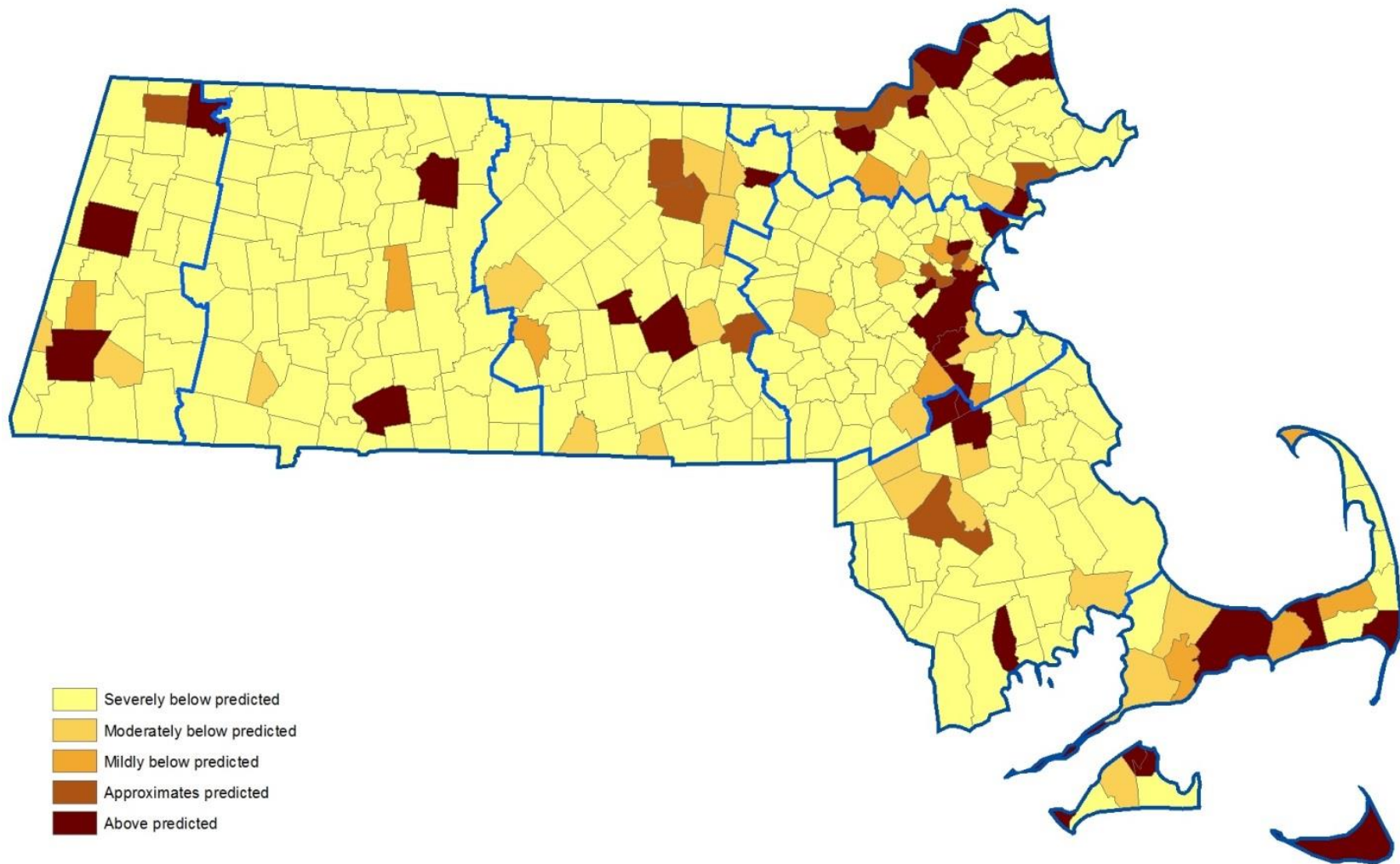
Table 5.5: Interpreting HUD’s Segregation Measures

Indicator	Maximum/ Minimum	Value Ranges	Interpretation
Dissimilarity Index	0 - 1	< 0.40	Low Segregation
<i>(Measures racial/ethnic segregation within jurisdiction)</i>		0.41-0.54	Moderate Segregation
		> 0.55	High Segregation
Predicted Racial/Ethnic Composition	0% - 200%+	0-50%	Non-White share severely below predicted
<i>(Measures non-economic racial/ethnic segregation across jurisdiction)</i>		50-70%	Non-White share moderately below predicted
		70-90%	Non-White share mildly below predicted
<i>(Ratio of predicted non-w hite share over actual non- w hite share)</i>		90-110%	Non-White share approximates predicted
		110%+	Non-White share above predicted
Fair Share Affordable Housing Index	0% - 200%+	0-50%	Extremely unaffordable
<i>(Measures economic segregation across jurisdiction,)</i>		50-70%	Moderately unaffordable
		70-90%	Mildly unaffordable
<i>(Ratio of actual jurisdiction affordable share over regional share needed affordable)</i>		90-110%	Balanced affordability
		110%+	Above fair share, affordable

More than three quarters of the state’s cities and towns have Black and Latino populations that are severely below the levels expected based on their income distribution according to this methodology. More than 57 percent have Asian populations that are severely below predicted levels. At the other end of the spectrum, Brockton, Randolph, Boston, and Springfield have more than double the predicted number of Blacks while Lawrence, Chelsea, Holyoke, and Lynn have more than double the predicted number of Hispanic. In fact, Chelsea’s Hispanic population is five times that predicted by the HUD methodology, and Brockton’s Black population is nearly six times the predicted number.

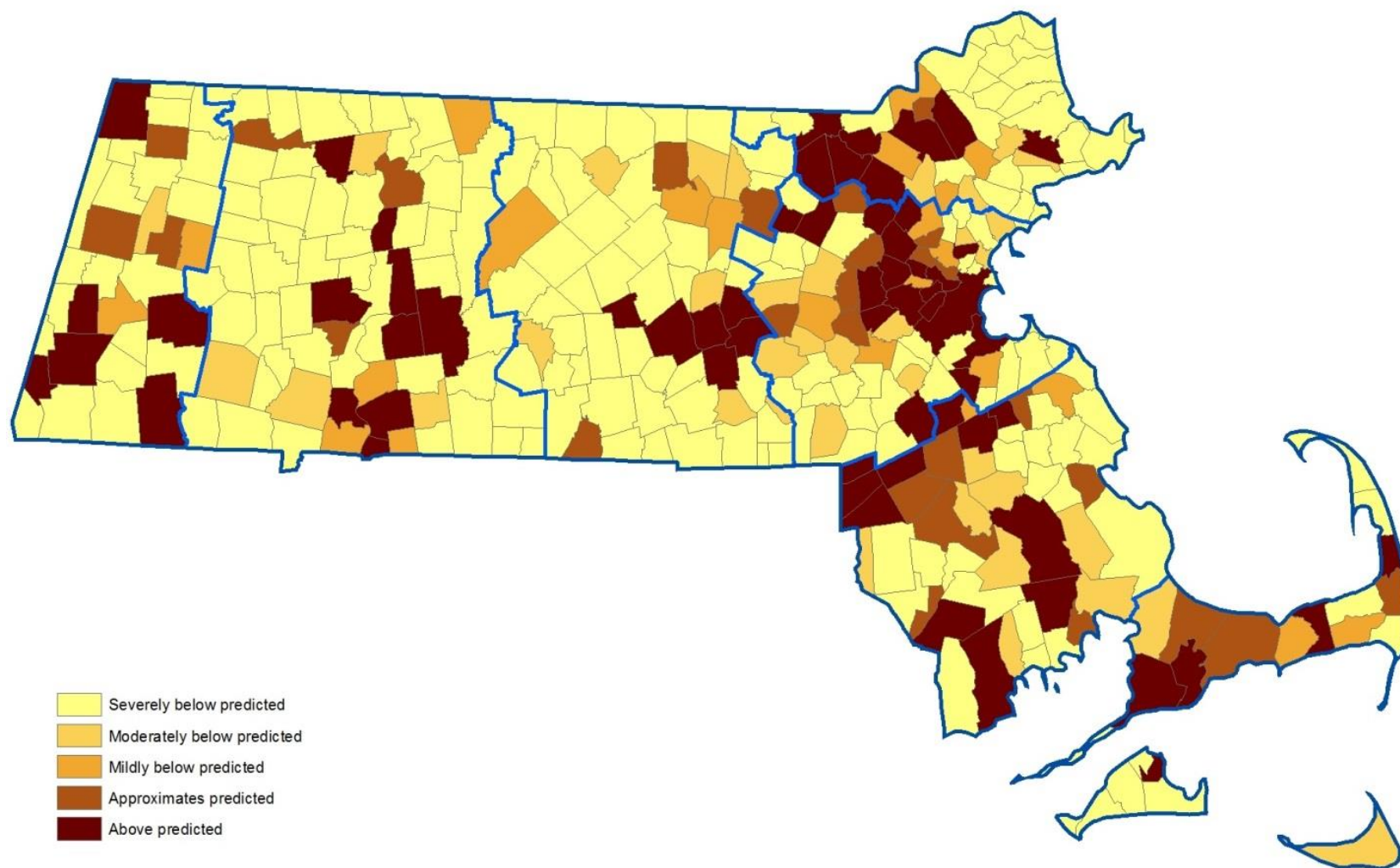
Maps 5.5 – 5.7 display the “predicted to reside versus actual” results for Asians, Blacks and Latinos. The summaries for all four of Massachusetts’ major racial/ethnic groups are summarized in **Table 5.6**. Detail by region by municipality can be found on **Table 5.1** in **Appendix 5**.

Map 5.5: Actual versus Predicted Asian



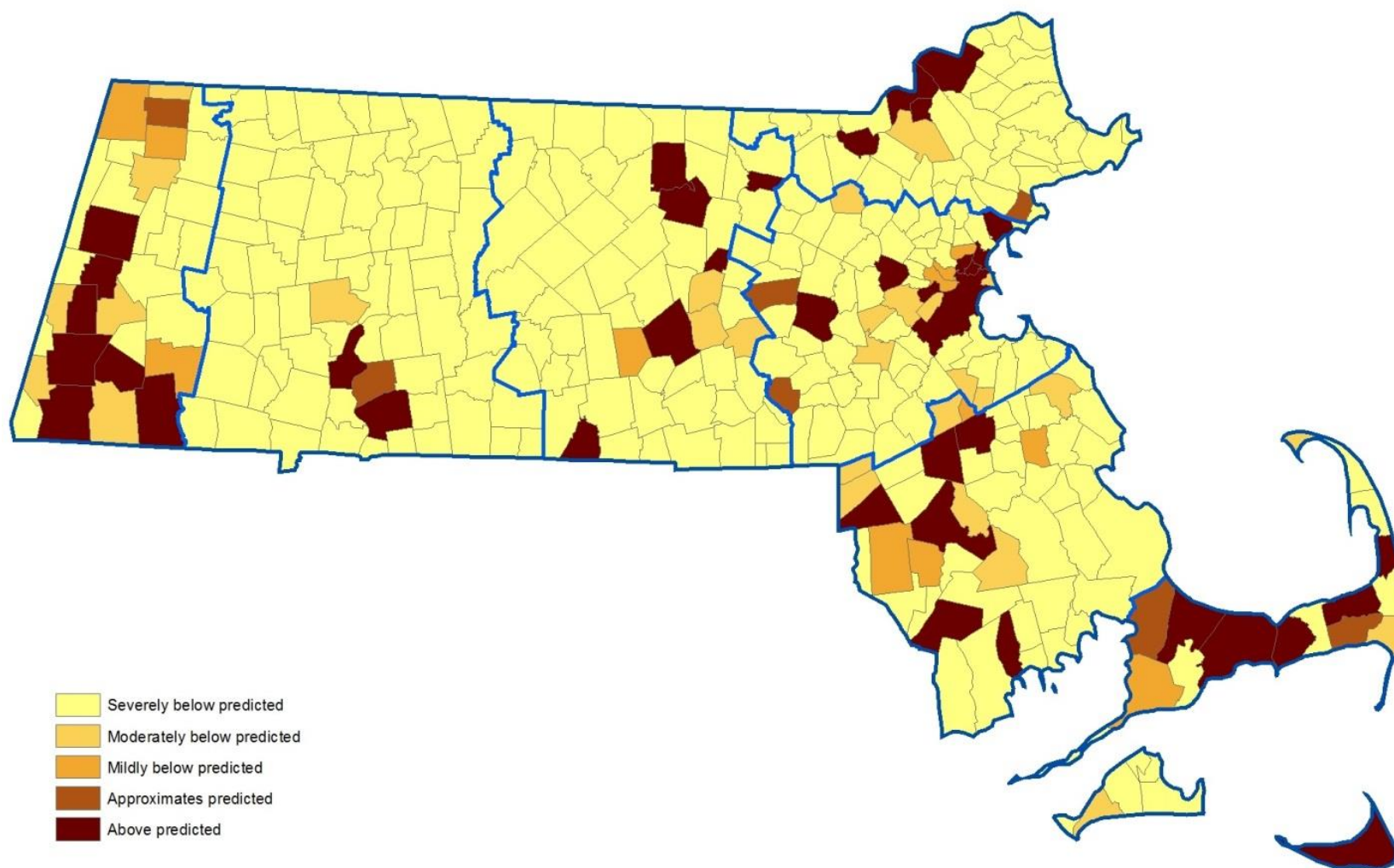
Source: # of households, 2010 Decennial Census; income distribution, 2005-2009 CHAS tabulations

Map 5.6: **Actual versus Predicted Black**



Source: # of households, 2010 Decennial Census; income distribution, 2005-2009 CHAS tabulations

Map 5.7: **Actual versus Predicted Hispanic**



Source: # of households, 2010 Decennial Census; income distribution, 2005-2009 CHAS tabulations

Table 5.6: Summary of Results: Predicted v Actual Households by Race/Ethnicity by Region

	Black	Asian	White	Hispanic		Black	Asian	White	Hispanic
Massachusetts	351	351	351	351					
Above predicted	31	62	178	38	8.8%	17.7%	50.7%	10.8%	
Approx predicted	10	28	158	7	2.8%	8.0%	45.0%	2.0%	
Mildly below	12	23	9	12	3.4%	6.6%	2.6%	3.4%	
Moderately below	26	37	4	28	7.4%	10.5%	1.1%	8.0%	
Severely below	272	201	2	266	77.5%	57.3%	0.6%	75.8%	
Berkshire	32	32	32	32					
Above predicted	3	6	0	7	9.4%	18.8%	0.0%	21.9%	
Approx predicted	1	3	32	1	3.1%	9.4%	100.0%	3.1%	
Mildly below	1	2	0	3	3.1%	6.3%	0.0%	9.4%	
Moderately below	2	1	0	6	6.3%	3.1%	0.0%	18.8%	
Severely below	25	20	0	15	78.1%	62.5%	0.0%	46.9%	
Boston	75	75	75	75					
Above predicted	5	17	51	7	6.7%	22.7%	68.0%	9.3%	
Approx predicted	2	8	19	2	2.7%	10.7%	25.3%	2.7%	
Mildly below	4	6	3	3	5.3%	8.0%	4.0%	4.0%	
Moderately below	4	11	2	8	5.3%	14.7%	2.7%	10.7%	
Severely below	60	33	0	55	80.0%	44.0%	0.0%	73.3%	
Cape and Islands	23	23	23	23					
Above predicted	8	5	0	6	34.8%	21.7%	0.0%	26.1%	
Approx predicted	0	3	22	2	0.0%	13.0%	95.7%	8.7%	
Mildly below	4	2	0	1	17.4%	8.7%	0.0%	4.3%	
Moderately below	3	2	0	3	13.0%	8.7%	0.0%	13.0%	
Severely below	8	11	1	11	34.8%	47.8%	4.3%	47.8%	
Central	62	62	62	62					
Above predicted	3	6	38	6	4.8%	9.7%	61.3%	9.7%	
Approx predicted	3	3	21	0	4.8%	4.8%	33.9%	0.0%	
Mildly below	1	3	3	1	1.6%	4.8%	4.8%	1.6%	
Moderately below	8	7	0	3	12.9%	11.3%	0.0%	4.8%	
Severely below	47	43	0	52	75.8%	69.4%	0.0%	83.9%	
Northeast	42	42	42	42					
Above predicted	6	8	25	4	14.3%	19.0%	59.5%	9.5%	
Approx predicted	3	1	15	1	7.1%	2.4%	35.7%	2.4%	
Mildly below	1	4	1	0	2.4%	9.5%	2.4%	0.0%	
Moderately below	2	4	0	1	4.8%	9.5%	0.0%	2.4%	
Severely below	30	25	1	36	71.4%	59.5%	2.4%	85.7%	
Pioneer Valley	69	69	69	69					
Above predicted	2	9	61	2	2.9%	13.0%	88.4%	2.9%	
Approx predicted	0	3	6	1	0.0%	4.3%	8.7%	1.4%	
Mildly below	1	4	1	0	1.4%	5.8%	1.4%	0.0%	
Moderately below	1	4	1	1	1.4%	5.8%	1.4%	1.4%	
Severely below	65	49	0	65	94.2%	71.0%	0.0%	94.2%	
Southeast	48	48	48	48					
Above predicted	4	11	3	6	8.3%	22.9%	6.3%	12.5%	
Approx predicted	1	7	43	0	2.1%	14.6%	89.6%	0.0%	
Mildly below	0	2	1	4	0.0%	4.2%	2.1%	8.3%	
Moderately below	6	8	1	6	12.5%	16.7%	2.1%	12.5%	
Severely below	37	20	0	32	77.1%	41.7%	0.0%	66.7%	

Source: Bonnie Heudorfer's analysis of 2006-2010 ACS data using HUD Sustainable Communities methodology

Fair Share Affordability Index

Because housing affordability is an important cause of economic segregation, it is often a driver of racial or ethnic segregation as well. HUD's "fair share" affordable housing index is a tool to help disentangle the various drivers of segregation. Using the 2005-2009 CHAS data, HUD provided an estimate for each of the agencies participating in its Sustainable Communities Regional Planning program of the number of units required to satisfy its regional need for extremely-low-, very low-, and low-income rental units. To count as affordable, the units must be affordable to *and* occupied by, a household at or below the specified income threshold. Using the HUD methodology, we have replicated that analysis for the seven Benchmark regions.

The fair share index quantifies the number of units needed in each income category (extremely low income, very low, etc.) in each region of the state in order to have one unit per renter household within each of the income categories. A unit is considered affordable if a household at the upper threshold of the category could afford it, paying no more than 30 percent of income for rent. Thus, a unit is considered affordable for all ELI households if a renter earning 30 percent of AMI can afford it; likewise a unit is considered affordable for VLI renters if a household earning 50 percent of AMI could afford it.

That number is then divided by the total housing stock of the region to produce a "need as percent of stock" variable. This percentage is then applied to the housing stock of each city and town to estimate its "fair share need." A municipality's current affordable stock is then divided by the "fair share need" to calculate a "percent of need measure." The fair share affordability index can be interpreted like the predicted to reside index: a ratio of less than 50 percent indicates that a community is extremely unaffordable; a ratio of 50-70 percent is moderately unaffordable; 70-90 percent, mildly unaffordable; 90-110 percent is considered balanced affordability; and a ratio of 110 percent or greater indicated the community is providing more than its fair share of affordable rental housing.

The fair share need varies widely across the seven regions, dependent as it is on the income of each region's residents. The Cape and Island's income profile, for example, suggests that 2.1 percent of all the housing units in the region should be rentals priced at no more than what a household earning 30 percent of AMI could afford, 3.6 percent should be rentals affordable to households earning 50 percent of AMI, and 18.6 percent should be rentals available to those earning 80 percent of AMI. (Note: these shares are cumulative.) In contrast, Pioneer Valley's lower income profile argues for a much higher level of affordable rental units at the ELI and VLI levels: 6.1 percent affordable to households at 30 percent AMI, 13 percent to households at 50 percent and 19.8 percent to households at the 80 percent threshold.

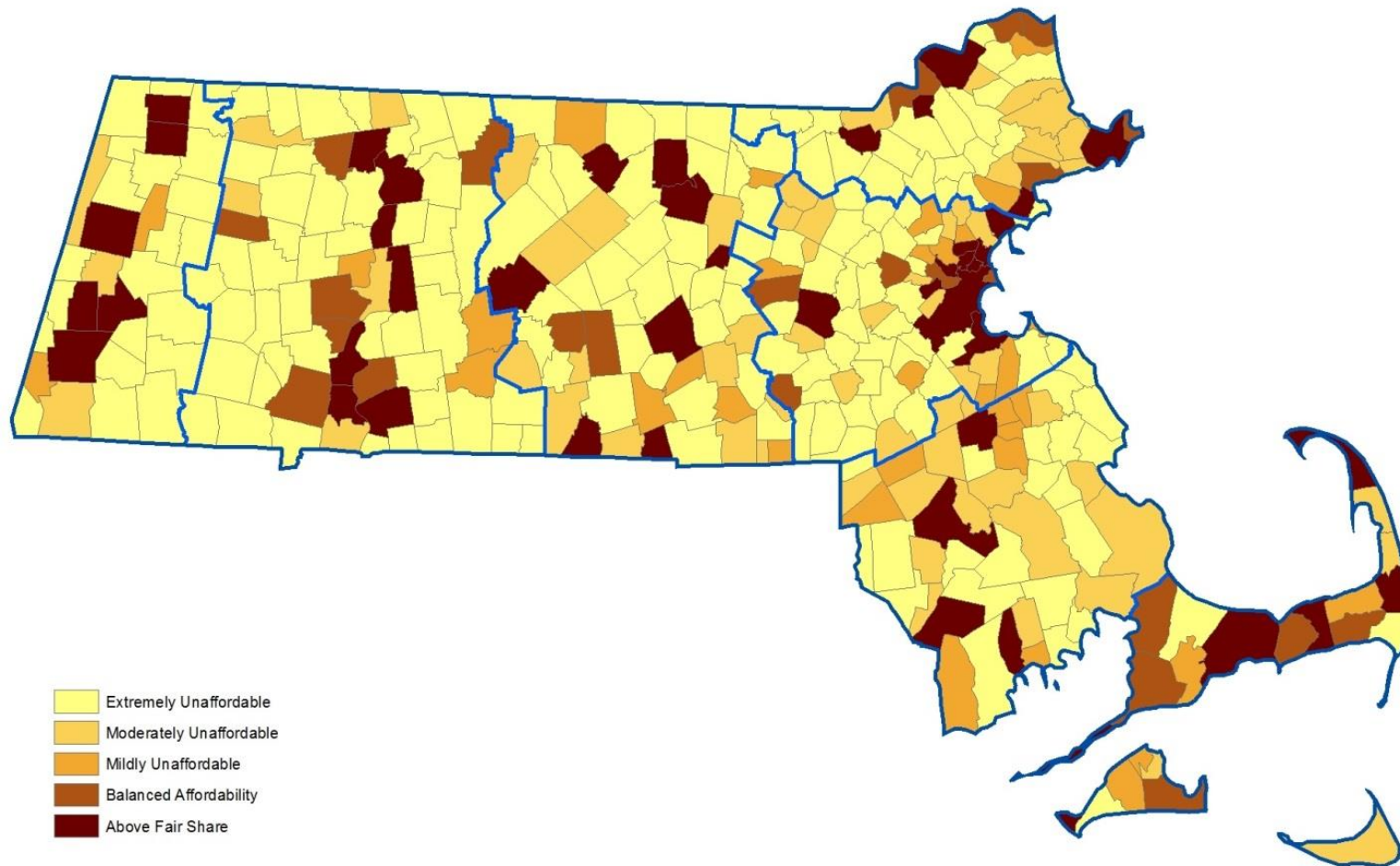
Table 5.7 summarizes the results of the fair share affordability analysis. Fewer than 20 percent of Massachusetts communities are deemed to be providing their fair share, or more than their fair share, of affordable units for low income (80% AMI) renters. Nearly 52 percent are deemed to be extremely unaffordable. **Map 5.4** displays the results. Detail by region by municipality is found on **Table 5.2** in **Appendix 5**.

Table 5.7: Summary of Results: Fair Share Affordability Analysis by Region

	Extremely Low Income	Very Low Income	Low Income	Extremely Low Income	Very Low Income	Low Income
Massachusetts	351	351	351			
Above fair share affordable	42	45	46	12.0%	12.8%	13.1%
Balanced affordability	22	24	24	6.3%	6.8%	6.8%
Mildly unaffordable	43	31	34	12.3%	8.8%	9.7%
Moderately unaffordable	57	56	65	16.2%	16.0%	18.5%
Extremely unaffordable	187	195	182	53.3%	55.6%	51.9%
Berkshire	32	32	32			
Above fair share affordable	3	4	6	9.4%	12.5%	18.8%
Balanced affordability	2	1	0	6.3%	3.1%	0.0%
Mildly unaffordable	1	4	2	3.1%	12.5%	6.3%
Moderately unaffordable	3	0	3	9.4%	0.0%	9.4%
Extremely unaffordable	23	23	21	71.9%	71.9%	65.6%
Boston	75	75	75			
Above fair share affordable	4	8	9	5.3%	10.7%	12.0%
Balanced affordability	7	4	5	9.3%	5.3%	6.7%
Mildly unaffordable	9	8	10	12.0%	10.7%	13.3%
Moderately unaffordable	14	12	15	18.7%	16.0%	20.0%
Extremely unaffordable	41	43	36	54.7%	57.3%	48.0%
Cape and Islands	23	23	23			
Above fair share affordable	11	10	7	47.8%	43.5%	30.4%
Balanced affordability	2	1	5	8.7%	4.3%	21.7%
Mildly unaffordable	4	5	4	17.4%	21.7%	17.4%
Moderately unaffordable	0	3	4	0.0%	13.0%	17.4%
Extremely unaffordable	6	4	3	26.1%	17.4%	13.0%
Central	62	62	62			
Above fair share affordable	10	8	8	16.1%	12.9%	12.9%
Balanced affordability	1	8	2	1.6%	12.9%	3.2%
Mildly unaffordable	6	3	6	9.7%	4.8%	9.7%
Moderately unaffordable	11	10	13	17.7%	16.1%	21.0%
Extremely unaffordable	34	33	33	54.8%	53.2%	53.2%
Northeast	42	42	42			
Above fair share affordable	7	6	5	16.7%	14.3%	11.9%
Balanced affordability	5	4	5	11.9%	9.5%	11.9%
Mildly unaffordable	7	3	2	16.7%	7.1%	4.8%
Moderately unaffordable	7	9	9	16.7%	21.4%	21.4%
Extremely unaffordable	16	20	21	38.1%	47.6%	50.0%
Pioneer Valley	69	69	69			
Above fair share affordable	4	5	7	5.8%	7.2%	10.1%
Balanced affordability	3	4	7	4.3%	5.8%	10.1%
Mildly unaffordable	6	5	3	8.7%	7.2%	4.3%
Moderately unaffordable	10	10	5	14.5%	14.5%	7.2%
Extremely unaffordable	46	45	47	66.7%	65.2%	68.1%
Southeast	48	48	48			
Above fair share affordable	3	4	4	6.3%	8.3%	8.3%
Balanced affordability	2	2	0	4.2%	4.2%	0.0%
Mildly unaffordable	10	3	7	20.8%	6.3%	14.6%
Moderately unaffordable	12	12	16	25.0%	25.0%	33.3%
Extremely unaffordable	21	27	21	43.8%	56.3%	43.8%

Source: Bonnie Heudorfer's analysis of 2006-2010 ACS data using HUD Sustainable Communities methodology

Map 5.4: Fair Share Affordability Index



Source: Bonnie Heudorfer's analysis of 2006-2010 American Community Survey data using HUD Sustainable Communities methodology

Racially and Ethnically Concentrated Areas of Poverty

The final tool supplied by HUD to assess the interaction of segregation and poverty is a census tract-based definition of racially and ethnically-concentrated areas of poverty (RCAPs). To meet the racial/ethnic concentration threshold a census tract must have a non-White population of 50 percent or more (i.e., non-Hispanic Whites must be in the minority). To meet the poverty threshold the tract must have the lower of 40 percent or more of the population living at or below the poverty line *or* a poverty rate that is three times the average tract rate, weighted by population, for the metro area/region. In the seven Massachusetts Benchmark regions the latter metric results in a threshold ranging from 22.2 percent in the Cape and Islands to 51.1 percent in the Pioneer Valley. Pioneer Valley is the only region where three times the poverty rate exceeds 40 percent threshold. Therefore, the “three times the average tract rate” applies for all regions except Pioneer Valley where the “40 percent” rule applies.

Using the HUD methodology, we identified the RCAPs in each of the Benchmark regions. Both the RCAPs and the high poverty census tracts that are not majority minority are clustered in just a handful of cities (**Table 5.8**). Of the 89 census tracts that meet the poverty threshold, only 20 do not also meet the 50 percent minority threshold. More than half the RCAPS are in Boston; other major clusters exist in Holyoke, Lawrence, Lowell, Lynn, New Bedford, Springfield, and Worcester. Half of the 20 high poverty census tracts that are not majority minority are also located in Boston, and a majority of these have non-White populations of over 40 percent.

Table 5.8: Racially Concentrated Areas of Poverty (RCAPs) in Massachusetts

Region	Total Census Tracts*	Total RCAPs	Non-racially concentrated high poverty tracts	Total Population in RCAPs	Non-Hisp White Population in RCAPs	Black Population in RCAPs	Asian^^ Population in RCAPs	Hispanic Population in RCAPs	All Other Population in RCAPs	Communities with RCAPs	Communities with non-racially concentrated high poverty tracts
Berkshire	39	0	0	0	0	0	0	0	0		
Boston	591	27	42	60,432	12,065	18,642	7,699	19,937	2,089	Boston, Chelsea, Lynn	Boston, Lynn
Cape & Islands	65	0	1	3,038	2,054	266	79	186	453		Barnstable
Central	177	12	13	36,620	11,717	4,333	2,560	16,479	1,531	Worcester	Fitchburg, Worcester
Northeast	204	15	18	37,781	7,122	1,068	2,171	26,857	563	Lawrence, Lowell	Haverhill, Lowell
Pioneer Valley	154	8	8	43,446	7,471	4,170	422	30,700	683	Holyoke, Springfield	Amherst
Southeast	225	6	21	9,323	3,253	1,615	99	2,521	1,835	Brockton, New Bedford	Fall River, New Bedford
MASSACHUSETTS	1,455	68	103	190,640	43,682	30,094	13,030	96,680	7,154		

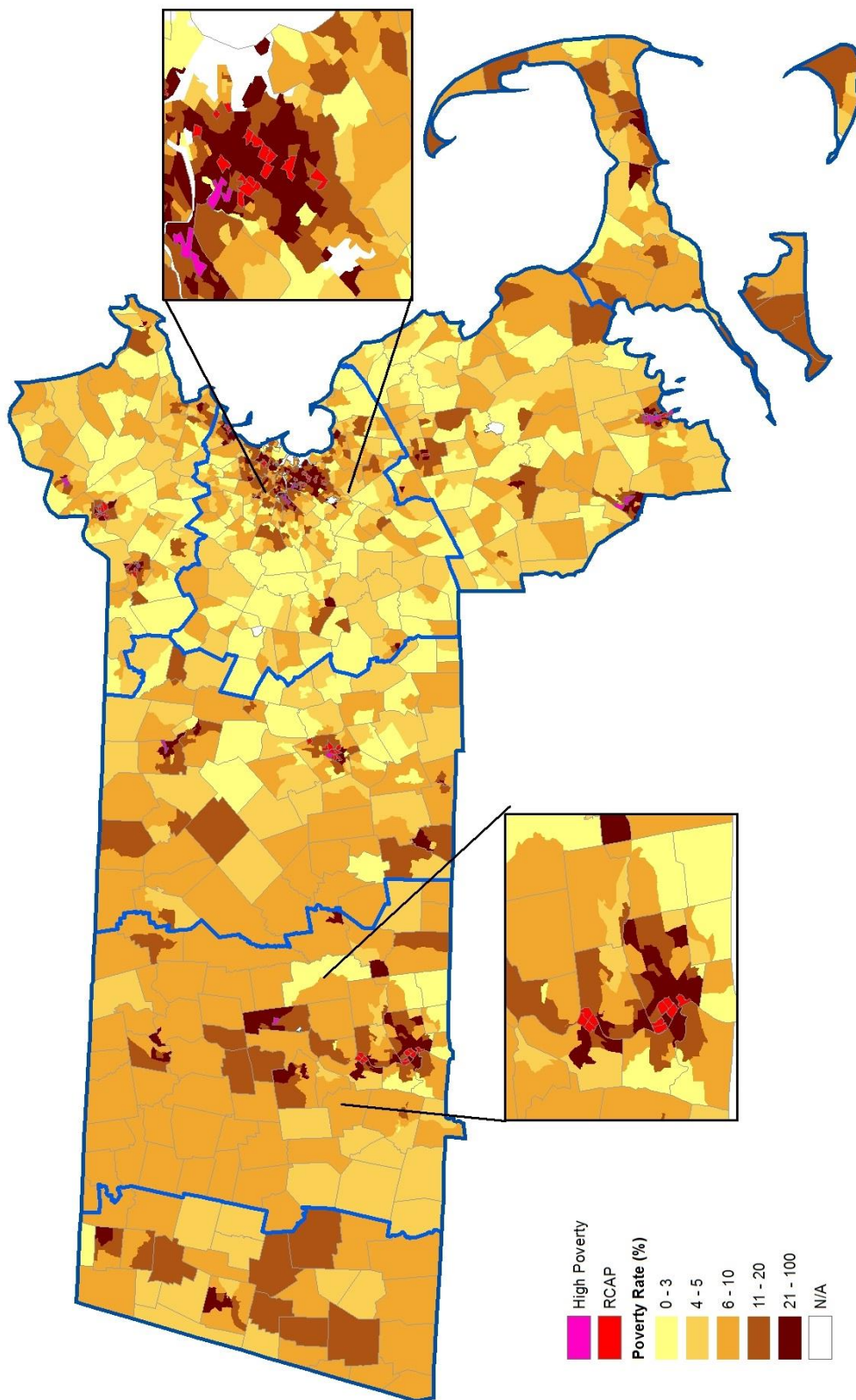
* Excludes unpopulated tracts and tracts for which poverty and other income characteristics are not provided (prisons, hospitals, crews in vessels, etc).

^^ Includes other Pacific Islanders

Source: 2010 5-Year American Community Survey

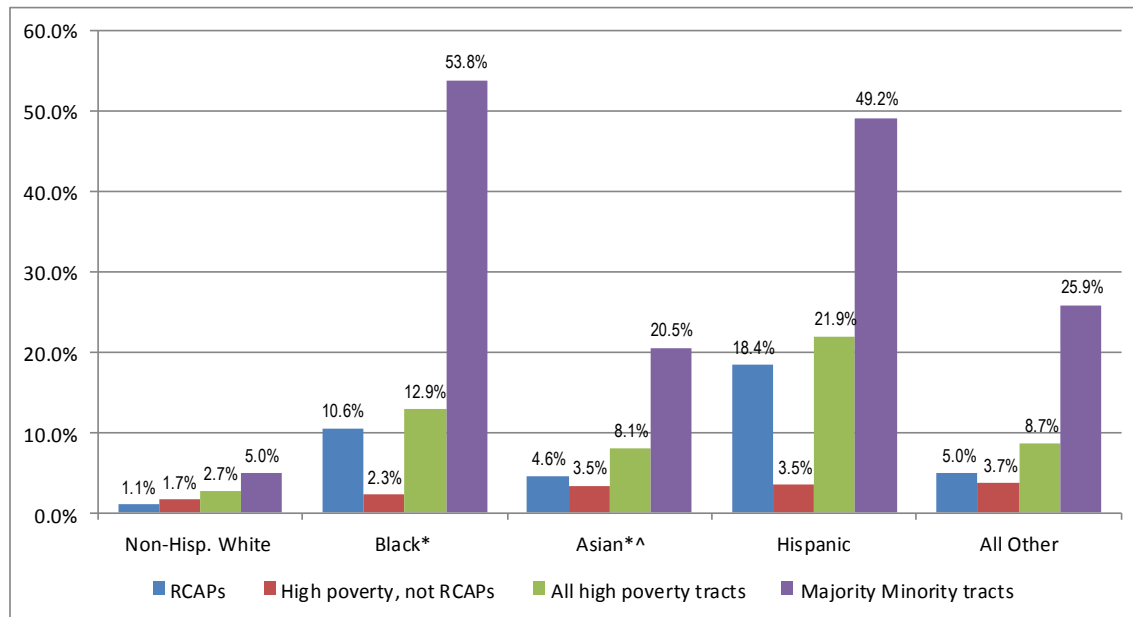
Fewer than 3 percent of non-Hispanic White households, and just 8 percent of Asian households, live in high poverty areas, which are shown on **Map 5.5**, compared to 13 percent of Black and 22 percent of Hispanic households. **Figure 5.3** shows the percent of each of the major racial/ethnic groups that live in non-racially concentrated high poverty neighborhoods as well as racially concentrated ones, while **Figure 5.4** depicts each group’s share of those living in high poverty areas.

Map 5.5: Racially Concentrated Areas of Poverty (RCAPs) in Massachusetts



Source: Bonnie Heudorfer's analysis of 2006-2010 American Community Survey data using HUD Sustainable Communities methodology

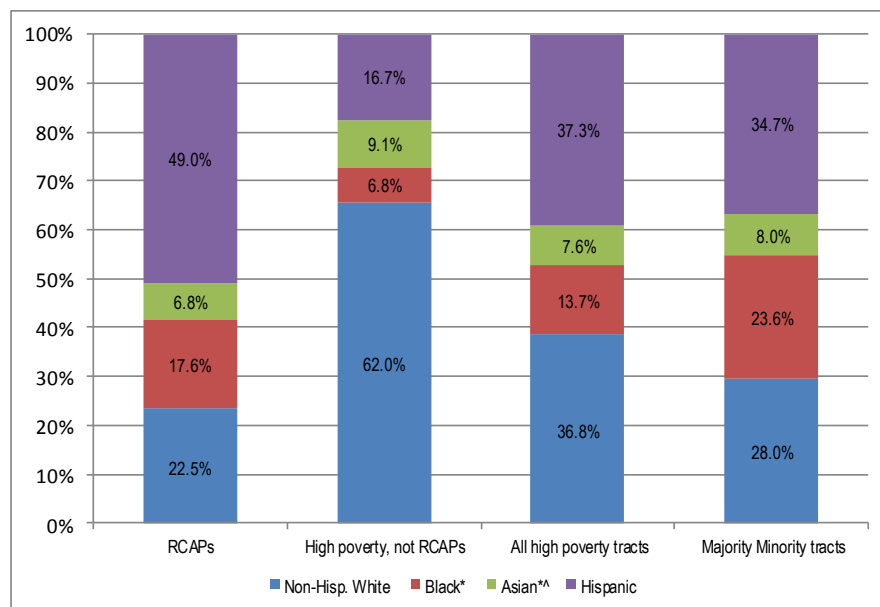
Figure 5.3: Percent of Racial/Ethnic Group Living in Census Tract by Tract Category



* Black and Asian residents who identified their ethnicity as Hispanic are counted as Hispanic, not as Black or Asian; ^ Includes Hawaiian/ Pacific Islander Population

Source: 2010 Decennial Census

Figure 5.4: Racial/Ethnic Group's Share of Those Living in Census Tract by Tract Category

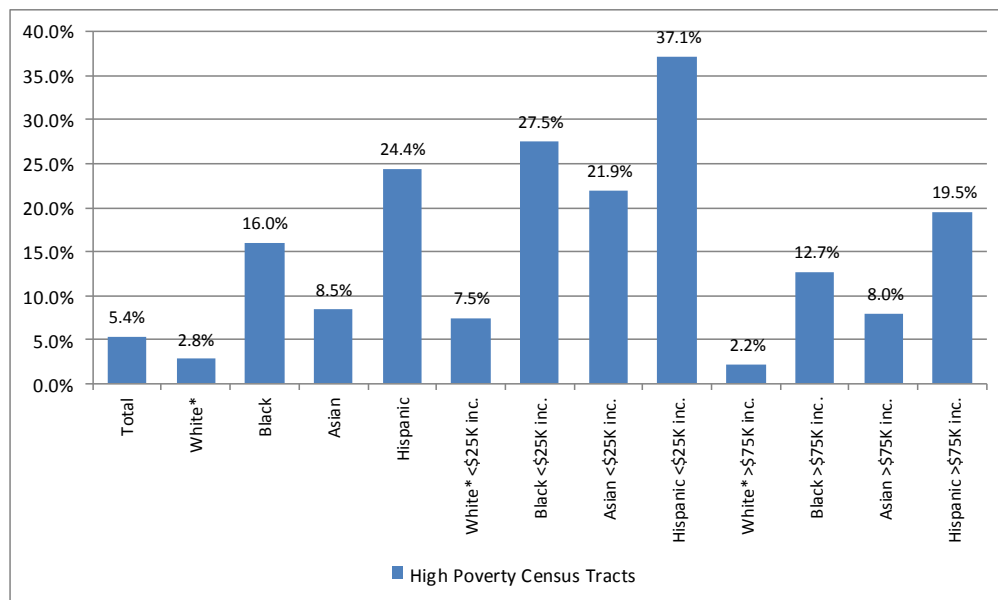


* Black and Asian residents who identified their ethnicity as Hispanic are counted as Hispanic, not as Black or Asian^; Includes Hawaiian/ Pacific Islander Population

Source: 2010 Decennial Census

Even at higher income levels, Blacks and Latinos are more likely than their White or Asian counterparts to live in racially concentrated areas of poverty, as **Figure 5.5** illustrates. Almost 20 percent of Latino households earning over \$75,000, and 13 percent of Blacks, live in high poverty areas compared to just over 2 percent of White households of similar income.

Figure 5.5: Percent of Massachusetts Population Living in High Poverty Census Tracts



Source: 2010 5-Year American Community Survey

6. Measuring Access to Areas of Opportunity

The location of one's home corresponds with a wide range of opportunities, including community safety, quality of schools, environmental quality, and access to jobs. Social science research has long shown that neighborhood conditions play an important role in the life outcomes of residents. Residents well-being is influenced not only by their own socio-economic circumstances and those of their family, but also by the wider community in which they live. Communities that provide access to high-quality education, a healthy and safe environment, sustainable employment – all critical building blocks of opportunity – increase the likelihood that their residents will meet their full development potential. The high degree of residential segregation in Massachusetts, combined with the fragmented nature of governance – localities control education, land use and other important resources – has limited the access of some groups to the qualities and amenities that provide opportunity.

This section examines issues related to access to opportunity, which encompass more than the income and poverty discussed in the previous section. The Department of Housing and Community Development (DHCD) recognizes that the qualities that define a community as offering high (or low) opportunity are multi-dimensional, and the agency is currently evaluating a variety of metrics that it might use to guide its policies and monitor progress. It has been guided in its analysis by the “opportunity mapping” research undertaken by the Kirwan Institute for the Study of Race and Ethnicity at Ohio State University and the U.S. Department of Housing and Urban Development (HUD), described below.

Opportunity Mapping: The Kirwan Institute Model

In 2008 Massachusetts legal services programs, led by the Massachusetts Law Reform Institute, commissioned Ohio State University's Kirwan Institute for the Study of Race and Ethnicity to conduct an “opportunity mapping analysis” of the Commonwealth. Opportunity mapping is a technique that utilizes extensive datasets and state-of-the-art Geographic Information Systems (GIS) to analyze the distribution of opportunity in metropolitan areas, and Kirwan is a national leader in the field. The goal of the Massachusetts initiative was to understand how low income groups and racial and ethnic populations were situated in the Commonwealth's “geography of opportunity,” defined as “environmental conditions or resources that are conducive to healthier, vibrant communities and are more likely to be conducive to helping residents in a community succeed.”⁹⁴

The Kirwan researchers assigned an “opportunity” rating to every census tract in the state, based on their analysis of 19 variables that are indicators of opportunity: sustainable employment, high performing schools, a healthy and safe environment, political empowerment, and outlets for wealth-building. In addition to creating an overall composite opportunity indicator, the Kirwan Institute also created 3 sub-indices: neighborhood/housing opportunity, economic opportunity, educational opportunity. **Table 6.1** identifies the variables used in the Kirwan study.

⁹⁴ *The Geography of Opportunity: Building Communities of Opportunity in Massachusetts*, Kirwan Institute for the Study of Race and Ethnicity, The Ohio State University, January 2009.

Table 6.1: Indicators Used in the Kirwan Institute’s MA Opportunity Mapping Analysis

Educational Opportunity	Economic Opportunity	Neighborhood/Housing Quality
Student Expenditures	Unemployment Rates	Home Values
Student Poverty Rate	Population on Public Assistance	Neighborhood Vacancy Rate
Students Passing Math Tests	Proximity to Employment	Crime Index or Crime Rate
Students Passing Reading Tests	Economic Climate (Job Trends)	Neighborhood Poverty Rate
Dropout Rate	Mean Commute Time	Home Ownership Rate
Graduation Rate		Proximity to Toxic Waste Release Sites
Number of Certified teachers		Proximity to Superfund Sites

Source: *The Geography of Opportunity: Building Communities of Opportunity in Massachusetts*, Kirwan Institute for the Study of Race and Ethnicity

In its January 2009 final report, the Kirwan Institute concluded that the degree of racial isolation in low opportunity areas in the Commonwealth was one of the highest rates of “opportunity segregation” found in any of the analyses it had conducted, particularly for Blacks and Latinos. The authors noted that racial isolation [in low-opportunity neighborhoods] was far more pronounced than class-based segregation, and they concluded that while both race and class play a role in who has access to high-opportunity communities, race may play the stronger role.⁹⁵

Fewer than 43 percent of Massachusetts’ lowest income non-Hispanic White households lived in low or very low income opportunity communities, but 71 percent of Asian, 93 percent of Black, and more than 95 percent of Latino households with similar incomes lived in areas so designated. More striking was the fact that 92 percent of middle income Black and Latino households and 90 percent of those in the highest income group (earning over \$60,000 in 2000) lived in one of the ten low or five very low opportunity communities. The corresponding figures for Whites are 34 and 22 percent and for Asians, 61 and 39 percent. (See **Table 6.2.**)

Table 6.2: Findings of the Kirwan Institute’s MA Opportunity Mapping Analysis: Where Households Currently Live, by Race and Income

Household Income	Neighborhood type	White (Non-Hispanic)	African American	Latino	Asian
Low Income Households (Earning Less than \$30K in 2000)	Low and very low opportunity	42.6%	93.0%	95.5%	71.0%
	Moderate opportunity	24.0%	4.0%	3.0%	10.3%
	High and very high opportunity	33.5%	3.0%	1.5%	18.7%
Middle Income Households (Earning \$30K to \$60K in 2000)	Low and very low opportunity	33.8%	92.3%	92.0%	61.0%
	Moderate opportunity	25.2%	4.3%	5.0%	17.4%
	High and very high opportunity	41.0%	3.4%	3.0%	21.4%
High Income Households (Earning \$60K or More in 2000)	Low and very low opportunity	21.5%	90.1%	89.6%	38.8%
	Moderate opportunity	22.0%	5.0%	6.8%	16.0%
	High and very high opportunity	56.5%	4.9%	3.5%	45.3%

Source: *The Geography of Opportunity: Building Communities of Opportunity in Massachusetts*, Kirwan Institute for the Study of Race and Ethnicity, 2009

⁹⁵ Ibid.

Working from the Kirwan database, Nancy McArdle, a researcher with expertise in analyzing patterns of racial change and segregation, assigned a municipal composite rating to each city and town: very high, high, moderate, low, and very low.⁹⁶ Based on these composite ratings, McArdle rated 9 of the 306 municipalities to which ratings were assigned as offering very low opportunity, and 31 as offering low opportunity. Six of the 9 “very low” rated communities are majority minority (Brockton, Chelsea, Holyoke, Lawrence, Lynn, and Springfield); the other three are Fall River, New Bedford and Lowell. **Table 6.3** summarizes the distribution of communities by region by opportunity rating.

Table 6.3: Distribution of Municipalities by Region by Composite Opportunity Rating

Benchmarks Region	Very Low	Low	Moderate	High	Very High	Total
Berkshire		1	9	9	4	23
Boston	2	6	11	14	40	73
Cape & Islands			5	5	9	19
Central		12	17	18	13	60
Northeast	2	2	6	16	17	43
Pioneer Valley	2	7	9	16	6	40
Southeast	3	3	19	20	3	48
Massachusetts	9	31	76	98	92	306

Source: Data aggregated to the municipal level by Nancy McArdle, based on the census tract rankings provided by the Kirwan Institute for the Study of Race and Ethnicity.

Table 6.4 shows how the four major racial/ethnic groups are distributed along the “opportunity” continuum in each region. The table highlights the correlation between one’s race/ethnicity and one’s access to amenities that are associated with high quality of life. While more than 47 percent of White, and 43 percent of Asian, households live in communities with a high or very high composite opportunity rating, just 18 percent of Black and 13 percent of Latino households do. At the other end of the opportunity spectrum, 28 percent of White and 40 percent of Asian households live in low or very low opportunity communities compared to 75 percent of Black and 77 percent of Latino households.

The Kirwan researchers also analyzed the state’s federally subsidized housing inventory through the lens of neighborhood opportunity and found that nearly 70 percent of the subsidized housing sites or projects – nearly 100,000 units – were located in low-opportunity communities, compared to only 15,000 units in high opportunity communities. (An updated discussion of the distribution of housing assistance is found in Chapter Section 7.)

⁹⁶ Forty-five towns that shared a census tract with a neighboring community in 2000 were not assigned a rating.

Table 6.4: Where Households of Different Races/Ethnicities Live, by Region and Composite Opportunity Rating*

	Very High	High	Moderate	Low	Very Low
Berkshire					
White	12.7%	16.6%	59.6%	11.1%	0.0%
Black	2.8%	6.6%	82.9%	7.8%	0.0%
Asian	10.9%	16.6%	65.8%	6.7%	0.0%
Hispanic	6.5%	8.2%	75.7%	9.6%	0.0%
Boston					
White	31.9%	21.0%	19.5%	24.5%	3.1%
Black	7.5%	8.8%	9.2%	69.7%	4.8%
Asian	28.6%	14.7%	18.4%	35.8%	2.5%
Hispanic	10.0%	8.1%	11.1%	53.8%	17.0%
Cape & Islands					
White	27.0%	44.2%	28.7%	0.0%	0.0%
Black	22.6%	51.5%	25.9%	0.0%	0.0%
Asian	20.9%	52.7%	26.4%	0.0%	0.0%
Hispanic	28.5%	46.1%	25.4%	0.0%	0.0%
Central					
White	19.2%	22.0%	18.5%	40.3%	0.0%
Black	6.3%	3.9%	6.5%	83.2%	0.0%
Asian	38.8%	9.9%	5.3%	46.0%	0.0%
Hispanic	4.6%	3.8%	6.5%	85.1%	0.0%
Northeast					
White	26.9%	32.0%	19.1%	11.6%	10.4%
Black	9.9%	16.2%	12.3%	16.6%	45.0%
Asian	29.9%	15.4%	7.7%	4.7%	42.4%
Hispanic	4.6%	5.0%	11.2%	13.3%	65.8%
Pioneer Valley					
White	7.4%	23.7%	28.8%	23.3%	16.7%
Black	1.1%	5.5%	4.9%	8.0%	80.4%
Asian	9.0%	30.7%	18.1%	16.0%	26.2%
Hispanic	0.8%	4.0%	6.5%	12.2%	76.5%
Southeast					
White	4.0%	30.9%	35.2%	7.0%	22.9%
Black	1.4%	8.2%	16.1%	4.9%	69.3%
Asian	3.9%	26.8%	24.1%	12.8%	32.3%
Hispanic	1.4%	8.8%	14.4%	6.7%	68.7%
MASSACHUSETTS*					
White	21.7%	25.7%	24.4%	19.9%	8.3%
Black	6.3%	8.9%	10.4%	52.3%	22.1%
Asian	27.6%	15.8%	16.4%	30.6%	9.5%
Hispanic	6.3%	6.7%	10.5%	38.5%	38.0%

Source: 2010 Decennial Census household counts by race/ethnicity; composite opportunity ratings assigned by Nancy McArdle, based on Kirwan Institute 2008-2009 research

This table is calculated at the municipal level. Because of the many census tract changes between 2000 and 2010, a side-by-side tract level comparison is not possible, nor is a tract level comparison of the 2009 Kirwan findings, which were based on the 2000 census tracts, and the more recent data HUD assembled for the Sustainable Communities Regional Planning Program grantees, which use the 2010 tracts. Census

tract boundaries will not change again until 2020 so this analysis can serve as a baseline for benchmarking progress for at least 7-10 years.

An Alternative Approach

As part of its Sustainable Communities Regional Planning Program, HUD developed its own process for analyzing opportunity to help grantees analyze equity within their regions. Like the Kirwan model, HUD's approach involves a two-stage process. The first stage involves quantifying the degree to which a neighborhood offers opportunity with metrics developed that rank each neighborhood relative to others in the city or metropolitan area. The second stage overlays onto these neighborhood rankings data on where people in particular subgroups live to develop a summary measure of that group's general access to opportunity. This summary measure can then be compared across subgroups to establish disparities in access to opportunity.

HUD focuses on six opportunity dimensions: neighborhood school proficiency; poverty; labor market engagement; housing/neighborhood stability; neighborhood health access; and job access. These dimensions and the indicators used to assess how one neighborhood might compare to another are shown in **Table 6.5**.

Table 6.5: HUD Sustainable Communities Opportunities Indices

Opportunity Dimensions	Variables
Poverty Index	Family Poverty Rate
	Percent Households Receiving Public Assistance
School Proficiency Index	School Math Proficiency / State Math Proficiency
	School Reading Proficiency / State Reading Proficiency
Labor Market Engagement Index	Unemployment Rate
	Labor force Participation Rate
	Percent with a Bachelor's or higher
Job Access Index	Tract-level Job Counts
	Tract-level Job Worker Counts
	Origin-Destination Flows
	Aggregate Commute Time
	Tract-Tract Average Commute Time by Mode
Housing Stability Index	Homeownership Rate
	Percent Loans Low-Cost (Re-Fi)
	Percent Loans Low-Cost (New Purchases\)
	Percent Vacant (Non-Seasonal)
Neighborhood Health Access Index	Percent Crowded
	Health Professional Shortage Areas

Source: HUD Sustainable Communities database

As the Kirwan researchers had done, HUD assigned each dimension a score, ranging from 1 to 10, with 10 representing the most opportunity-rich census tracts and 1 the most opportunity-scarce tracts. This score, or exposure index, represents the weighted average of the variables evaluated for each opportunity dimension. (For labor market engagement, for example, the variables weighted are the unemployment

rate, labor force participation rate and percent of residents with a bachelor's degree or higher.) Based on these rankings, HUD assigned a composite index, indicating the degree to which a census tract offered opportunity for its residents. While these composite ratings enable one to rank census tracts, as the Kirwan researchers had done (e.g. with the top quintile designated "very high opportunity" areas, the next quintile as "high opportunity," and so on), HUD has discouraged their use for such purposes. Instead, the agency has urged its Sustainable Communities grantees to focus on the individual components of opportunity, for example, educational quality, access to jobs or neighborhood stability.

As described in Inset 5.2, four Massachusetts agencies have been awarded Regional Planning Grants by HUD under its Sustainable Communities Initiative. Collectively these four grants cover 265 of the Commonwealth's 351 cities and towns and 81 percent of the population. As part of this Analysis of Impediments to Fair Housing, DHCD has carefully reviewed HUD's analysis of access to opportunity for various subpopulations in each of the four Sustainable Communities Planning regions.

HUD calculated exposure indices for five of its opportunity dimensions (Neighborhood Health Access was not available at this time) across a range of subgroups that included not only the major racial/ethnic categories but also public housing residents and Section 8 Housing Choice voucher holders. HUD also calculated exposure indices, by race/ethnicity, for persons in poverty to assist jurisdictions in understanding whether there are meaningful differences in exposure to opportunity across groups that cannot be explained by differences in income.

The exposure indices can be used to identify disparities in access to opportunity across racial and ethnic groups. (Disparity values are calculated as the simple difference in average exposure to a given opportunity dimension across two groups.) **Table 6.6** summarizes the findings by Sustainable Communities Planning Regions.⁹⁷ Highlighted disparity cells represent statistically significant differences across groups at the 0.1 significance level. The exposure index values can be loosely interpreted as the percentile ranking of the average neighborhood for each group. For example, in the Metropolitan Area Planning Council region, the housing stability index for poor (poverty level) Whites, on average, is 5.26 (53rd percentile) compared to 2.85 (29th percentile) for poor Blacks. This translates into a statistically significant 24 percentile difference in housing and neighborhood stability between poor Whites and poor Blacks. There was also a significant disparity between the poor Whites and poor Latinos and poor Asians. In the same region, Blacks fared comparatively better on the Job Accessibility Index with only a very slight, statistically insignificant disparity.

Notwithstanding its admonition against using a composite index for ranking purposes, HUD did provide its grantees with such a calculation, and it shows significant disparities between Whites and Blacks and Latinos in the Springfield region and between those groups as well as between Whites and Asians in the Boston region. Table 6.6 shows that the race-associated disparities in opportunity are concentrated in those regions – Boston and Springfield – that have substantial populations of color and highly segregated housing markets. It also shows that income does not explain the disparities in access to opportunity, just as it did not explain patterns of residential segregation.

⁹⁷ Data at the census tract and summed to the municipal level are not available at this time for the Sustainable Communities regions.

Table 6.6: Disparities in Access to Opportunity in Massachusetts 4 Sustainable Communities Regional Planning Grant Regions

Berkshire Regional Planning Commission (32 cities and towns)															
Dimension	All Persons	Poor Families	Persons in Voucher households	Persons in Public Housing	White Persons	Poor White	Black Persons	Poor Black	Hispanic Persons	Poor Hispanic	Asian Persons	Poor Asian	Disparity Black-White	Disparity Hispanic-White	Disparity Asian-White
School Index	4.54	3.84	3.00	2.48	4.57	4.06	3.78	3.05	4.13	3.55	5.68	5.07	1.00	0.50	-1.01
Poverty Index	4.53	2.74	2.17	1.54	4.60	3.44	3.05	2.00	4.01	2.74	4.90	5.07	1.44	0.70	-1.63
Labor Engagement Index	5.05	3.92	2.83	2.34	5.10	4.18	3.74	2.48	4.09	2.67	6.52	5.26	1.70	1.51	-1.08
Housing Neighborhood Stability Index	5.08	4.29	3.04	2.14	5.14	4.46	3.86	3.59	4.28	3.51	5.45	5.72	0.87	0.95	-1.26
Job Accessibility Index	6.06	6.32	6.31	7.58	6.06	6.21	5.78	6.29	6.09	6.71	6.40	4.06	-0.08	-0.50	2.15
Opportunity Index	4.82	3.35	2.41	1.75	4.88	3.78	3.47	2.55	4.16	3.05	6.00	4.48	1.23	0.74	-0.69
Demographic Shares of Total Population					92.31%		2.31%		2.48%		1.42%				
Capitol Region Council of Governments (29 CT and 43 MA cities and towns. Pioneer Valley Planning Commission was the participating MA planning agency.)															
Dimension	All Persons	Poor Families	Persons in Voucher households	Persons in Public Housing	White Persons	Poor White	Black Persons	Poor Black	Hispanic Persons	Poor Hispanic	Asian Persons	Poor Asian	Disparity Black-White	Disparity Hispanic-White	Disparity Asian-White
School Index	4.85	2.66	2.16	1.82	5.58	4.59	2.71	1.96	2.52	1.73	5.30	3.92	2.63	2.86	0.68
Poverty Index	5.16	2.47	2.22	2.01	5.88	4.39	3.34	1.92	2.75	1.70	5.41	3.12	2.47	2.69	1.27
Labor Engagement Index	5.44	2.91	2.64	2.56	6.19	5.01	3.30	2.11	2.92	1.96	6.14	4.65	2.90	3.04	0.36
Housing Neighborhood Stability Index	5.55	3.18	2.52	2.65	6.40	5.26	3.06	2.27	3.00	2.14	5.51	4.34	2.99	3.13	0.92
Job Accessibility Index	5.52	5.46	5.72	5.34	5.44	5.87	5.75	5.77	5.47	5.26	6.42	6.80	0.10	0.61	-0.93
Opportunity Index	5.39	2.77	2.35	2.29	6.20	4.91	3.01	1.98	2.78	1.85	6.08	4.32	2.92	3.06	0.59
Demographic Shares of Total Population					71.63%		10.00%		13.62%		3.05%				
Franklin County Regional Council of Governments (26 cities and towns)															
Dimension	All Persons	Poor Families	Persons in Voucher households	Persons in Public Housing	White Persons	Poor White	Black Persons	Poor Black	Hispanic Persons	Poor Hispanic	Asian Persons	Poor Asian	Disparity Black-White	Disparity Hispanic-White	Disparity Asian-White
School Index	4.38	3.99	3.36	0.00	4.40	4.17	N/A	N/A	3.70	3.91	5.04	5.34	N/A	0.27	-1.17
Poverty Index	5.11	3.78	3.97	0.00	5.13	4.39	N/A	N/A	4.31	4.14	6.39	6.91	N/A	0.25	-2.52
Labor Engagement Index	6.18	4.94	4.44	0.00	6.21	5.48	N/A	N/A	5.12	4.86	7.29	8.04	N/A	0.62	-2.57
Housing Neighborhood Stability Index	6.41	5.85	5.83	0.00	6.44	6.27	N/A	N/A	5.81	5.34	6.76	6.59	N/A	0.93	-0.32
Job Accessibility Index	7.92	7.76	7.71	0.00	7.91	7.93	N/A	N/A	7.89	8.92	8.29	8.35	N/A	-0.98	-0.42
Opportunity Index	6.02	4.85	4.46	0.00	6.03	5.44	N/A	N/A	5.07	5.10	7.36	7.75	N/A	0.35	-2.30
Demographic Shares of Total Population					93.15%		0.95%		2.60%		1.33%				
Metropolitan Area Planning Council (101 cities and towns)															
Dimension	All Persons	Poor Families	Persons in Voucher households	Persons in Public Housing	White Persons	Poor White	Black Persons	Poor Black	Hispanic Persons	Poor Hispanic	Asian Persons	Poor Asian	Disparity Black-White	Disparity Hispanic-White	Disparity Asian-White
School Index	5.54	3.90	3.42	2.72	6.09	4.89	2.83	2.31	3.27	2.61	5.39	3.96	2.57	2.27	0.93
Poverty Index	5.23	3.07	3.34	2.32	5.73	4.53	3.03	2.13	3.26	2.27	4.83	3.35	2.40	2.27	1.18
Labor Engagement Index	5.83	4.05	3.86	3.39	6.25	5.61	3.45	2.96	4.01	3.26	6.10	5.08	2.65	2.35	0.53
Housing Stability Index	5.90	4.22	3.59	3.94	6.47	5.26	3.15	2.85	3.51	2.90	5.71	4.60	2.42	2.36	0.66
Job Accessibility Index	5.44	5.34	5.60	5.14	5.46	5.75	5.72	5.60	5.21	4.92	5.13	5.31	0.15	0.83	0.44
Opportunity Index	5.54	3.48	3.20	2.71	6.12	4.90	2.82	2.28	3.16	2.36	5.27	3.87	2.61	2.53	1.03
Demographic Shares of Total Population					75.46%		7.49%		8.01%		6.69%				

Source: HUD Sustainable Communities database

7. Housing Need and Allocation of Affordable Housing Resources

The 2009 Kirwan Institute report discussed in Section 6 noted the crucial role affordable housing plays in providing access to opportunity. Calling housing a critical bridge, the report's authors emphasized that housing is more than shelter; it is a strategic intervention point into opportunity and advancement for marginalized populations.⁹⁸ In Massachusetts, a substantial inventory of subsidized housing provides the safety net for many of the state's lowest income residents, including a disproportionate share of the protected classes.

This section examines the housing needs of Massachusetts' residents – its lower income residents, in particular – and how well they are being met, both in the private market and in the assisted inventory. It estimates the number and type of households that are income-eligible for assistance under various state and federal housing programs and the affordable housing resources available to serve them. It also includes a detailed analysis of the state's public and subsidized housing and rental assistance programs, including a description of who is being served and where.

Estimates of housing need and eligibility for housing assistance come from several sources. Primary datasets include the 2010 Decennial Census; the 2010 one-, three- and five-year American Community Surveys (ACS); and the 2005-2009 ACS-based Comprehensive Housing Affordability Strategy (CHAS) data. Information on the demographic, economic and household characteristics of those living in public or publicly assisted housing, or receiving housing assistance in the form of rental vouchers, comes primarily from two sources: information collected under the 2006 Massachusetts Data Collection Act and the federal Department of Housing and Urban Development (HUD) Picture of Subsidized Households (2009). These new datasets complement the housing needs assessment undertaken by DHCD in 2010 as part of its 2010-2014 Consolidated Plan.

Housing for Whom? A Snapshot of Massachusetts Households in 2010

At the time of the 2010 Census, there were 2,547,075 households in Massachusetts. Of these, 959,917 were renters (38%) and 1,587,580 owned their homes (62%). **Figure 7.1** illustrates the estimated distribution by household type according to the classification system HUD uses in its CHAS estimates: large family, small family, elders families, and non-elders individuals. The categories are defined as follows:

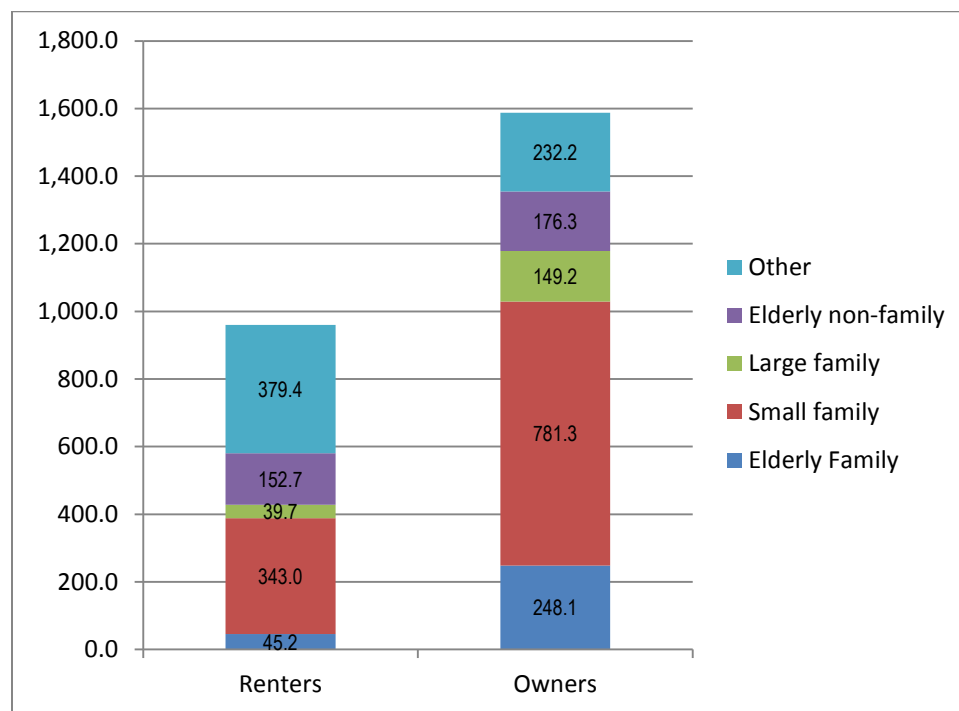
- Small family - a small family is a 2 person family where neither member is 62 or older, or a 3 or 4 person family
- Large family - a large family is a family with 5 or more members
- Elders family - An elders family is a 2 persons, either or both of whom is 62 or over
- Elders non-family – An elders non-family is one or more individuals age 62 or over
- Other - All other non-elders, non-family households

⁹⁸ *The Geography of Opportunity: Building Communities of Opportunity in Massachusetts*, The Kirwan Institute for the Study of Race and Ethnicity, Ohio State University, 2009.

(In many of our calculations the two elders categories have been combined. For planning purposes, however, the number of seniors – frail elders homeowners, in particular – who live alone is an important market segment to monitor. It faces a number of special challenges, and it is a population that is expected to grow significantly in coming years.)

Small households –whether made up of seniors, younger individuals or small families – predominate, among both renters and owners. Sixty-nine percent of renter households consist of just one or two persons and 84 percent have one-to-three members. The corresponding figures for homeowners are 56 percent and 73 percent.

Figure 7.1: Distribution of Massachusetts Households by Tenure and Household Type



Source: # of households, 2010 Census; distribution, 2005-2009 CHAS tabulations

The income categories used by HUD to determine eligibility for its various housing and community development programs are:

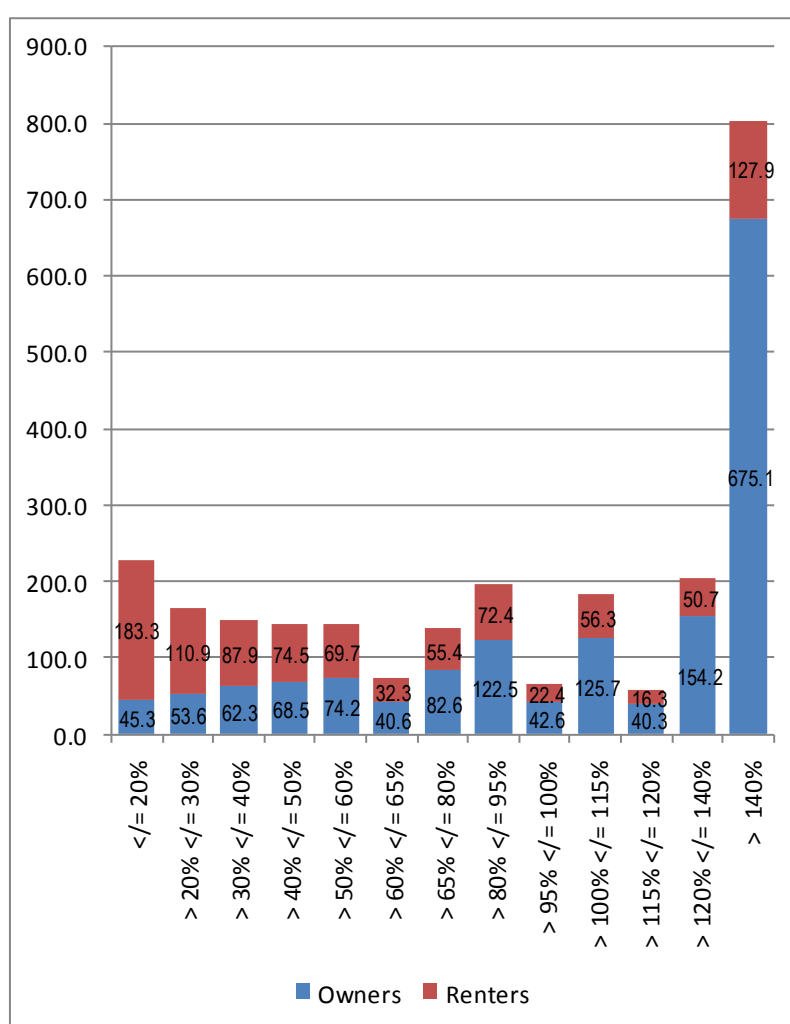
- Extremely low income (ELI) - less than or equal to 30 percent of HUD area median family income (HAMFI, or AMI)
- Very low income (VLI) - greater than 30 percent but less than or equal to 50 percent AMI
- Low income (LI) - greater than 50 percent but less than or equal to 80 percent AMI, and
- Moderate income (MI) – greater than 80 percent but less than or equal to the median (100%).

Limited information is available also for households earning 51-60 percent and 81-100 percent of AMI, categories identified as tax credit and moderate income, respectively. Where all three of the low income categories are combined, they are referred to as “all low income.” Households earning above 80 percent

of AMI are referred to as “not low income.” (A detailed breakdown by income, household type, tenure, and region is provided in **Table A-7.1** in **Appendix 7.**)

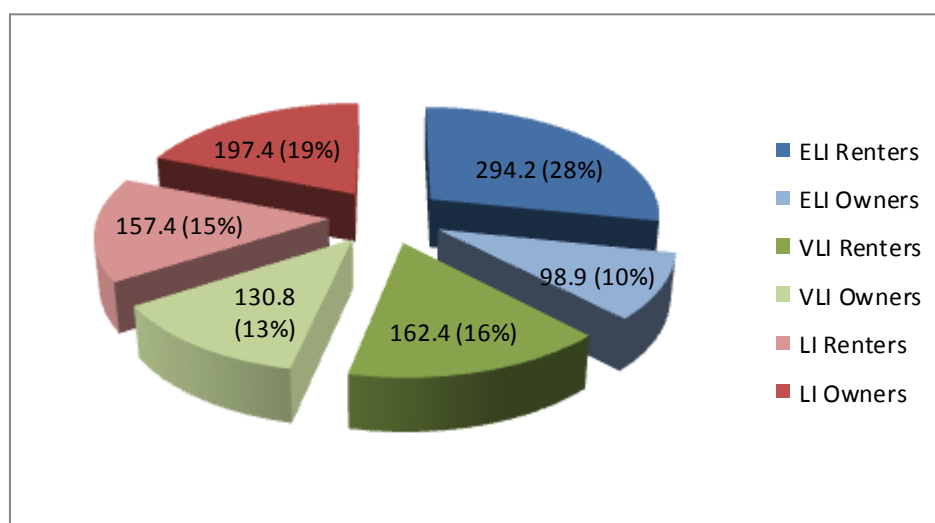
Figure 7.2 depicts the estimated distribution of the state’s roughly 2.5 million households by narrow income bands ranging from less than 20 percent of area median income to greater than 140 percent, while **Figure 7.3** shows the distribution of just the low income households – those earning no more than 80 percent of AMI. Nearly one third of Massachusetts households earn over 140 percent of the median income in their market area while more than 15 percent earn less than 30 percent. Three quarters of those earning above 140 percent are homeowners; three quarters of those earning less than 30 percent are renters.

Figure 7.2: Distribution of Massachusetts Households by Tenure and Income, 2010



Source: # of households, 2010 Census; distribution, 2005-2009 CHAS tabulations

Figure 7.3: Distribution of Massachusetts' Low Income Households by Tenure and Income Category



of households shown in thousands. Total low income households = 1,051.7
Source: # of households, 2010 Census; income distribution, 2005-2009 CHAS tabulations

Who is Income Eligible for Housing Assistance?

Within the universe of all low income renters, about 34 percent are small families of 4 or fewer members, 27 percent are seniors (age 62 and over) and 34 percent are non-family households headed by a person under 62 (called “other”). Fewer than 5 percent are large families with five or more members. Particularly in and around Boston and Amherst the “other” category is inflated by the large number of students, recent graduates and other young renters, who are drawn to these areas when they form their first independent household. Despite their current low incomes, many in this group have the expectation that their incomes will rise over time. Among owners, 51 percent are seniors, 27 percent are small families, 6 percent are large families and 15 percent are other. **Table 7.1** summarizes the distribution of households by type and tenure within each of the major income categories.

Table 7.1: Distribution of Households by Household Type, Tenure and Income

Household Type	Extremely Low Income		Very Low Income		Low Income		All Low Income Categories (<=80%)		>80% Income	
	Owners	Renters	Owners	Renters	Owners	Renters	Owners	Renters	Owners	Renters
Elderly	61%	34%	59%	26%	40%	15%	51%	27%	18%	9%
Small Family	17%	29%	24%	37%	35%	39%	27%	34%	57%	39%
Large Family	3%	4%	5%	5%	9%	5%	6%	5%	11%	3%
Other	18%	33%	12%	31%	16%	41%	15%	34%	14%	49%
Income Group as % of Total Owners(Renters)	7%	32%	8%	17%	12%	16%			73%	35%

Source: 2005-2009 CHAS tabulations

Among all renters, 32 percent are extremely low income, 17 percent are very low income, 16 percent are low income, 10 percent are moderate income and 26 percent earn more than the median income. This distribution suggests that the Commonwealth should strive to maintain a housing supply that includes about 305,000 rental units that are affordable (and available) to ELI renters, an additional 160,000 units for VLI renters and 155,000 for LI renters.⁹⁹ Such housing might be low cost public housing or deeply subsidized private housing; market rate housing that is within the allowable rent limits (fair market rents) established by HUD; or some combination of the two. (Refer to Section 5 for a description of how these affordable units would be distributed under HUD's fair share affordability index.)

The comparable market shares among homeowners are 7 percent ELI, 8 percent VLI, 12 percent LI, 10 percent MI, and 62 percent above median income. Although Massachusetts is one of a handful of states that has used its financial resources and regulatory powers to support the development of new homes for sale to low income households, it is not currently doing so. The high proportion of low income homeowners reflects the large, and growing, number of older owners who purchased their homes years ago when their incomes were higher and home prices were lower. (Sixty percent of ELI and VLI owners are seniors.)

Affordability Gap Analysis: Are There Enough Affordable Housing Units?

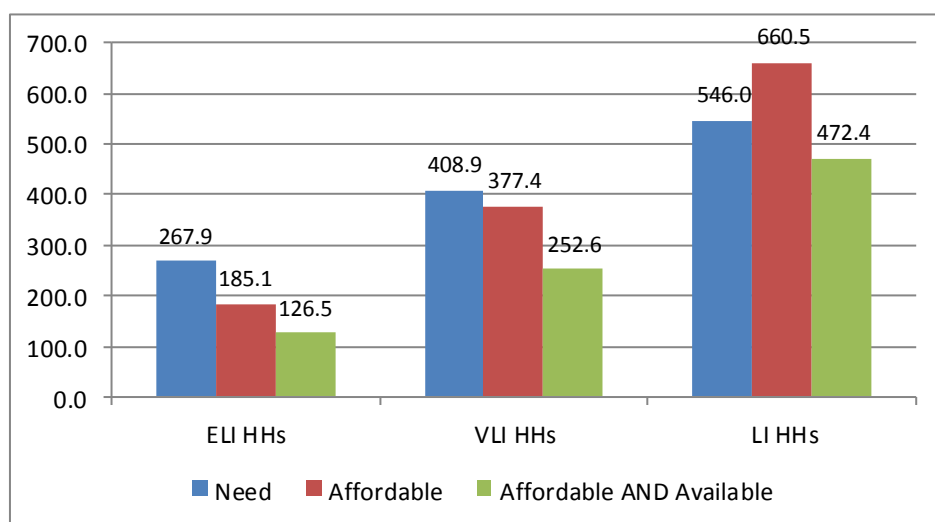
To gauge the nature and severity of the affordable housing shortage in the seven regions, DHCD conducted an affordability gap analysis. Also called a housing mismatch analysis, this is a technique used to determine whether there is an absolute shortage of housing units to meet the needs of extremely low, very low and low income residents; a mismatch due to the fact that the affordable units that do exist are not available to those who need them; or some combination of the two. A mismatch often occurs when higher income households are occupying units that lower income households could afford. It can also occur if affordable units are vacant or otherwise held off the market or if the affordable units are not located where they are needed.

While it is not possible to simply reallocate existing occupied housing units – higher income households often choose to rent a lower cost unit than they can “afford” – the gap analysis is a useful tool for quantifying housing need. We compared the number of renter households, by region and income category, with the number of existing housing units they could afford. A unit was deemed affordable if the rent, including utilities, consumed no more than 30 percent of the gross income of a household at the upper limit of income eligibility. (For this analysis it does not matter whether or not the unit is subsidized. The contribution of the state's vast inventory of assisted housing to meeting the needs of its lowest income residents is discussed elsewhere in this section.)

⁹⁹ The 2005-2009 CHAS data estimated that almost 558,000 renter households were low income (\leq 80% AMI, adjusted for family size). That estimate was based on the 2005-2009 American Community Survey, which estimated there were about 864,000 renter households in total in Massachusetts. The 2010 Decennial Census enumerated some 96,000 *more* renter occupied units than the ACS had, and we estimate that the incomes of 62,000 of these additional households would qualify them for rental assistance, bringing the total to nearly 620,000, almost 65 percent of all renter households.

Figure 7.4 depicts the Commonwealth’s rental housing supply in 2005-2009 by price range. There were some 849,400 renter households living in Massachusetts at that time. Nearly 32 percent – about 267,900 households –were extremely low income. There were about 185,100 rental units, occupied and vacant, that these households could potentially afford without spending more than 30 percent of their income on housing and utility costs. Another 141,000 renter households were very low income and 137,000 were low income. To house all three low income groups, would have required more than 546,000 “affordable” units ($267.9 + 141.0 + 137.1$). The state had about 660,500 such units, but as Figure 7.4 illustrates, more than 28 percent of the units that were affordable to households earning 80 percent of AMI or less were not available to them because they were occupied by higher income households.¹⁰⁰

Figure 7.4: Massachusetts Affordable Rental Housing Needs, Supply



Income categories are cumulative! VLI includes ELI renters, LI includes both ELI and VLI.

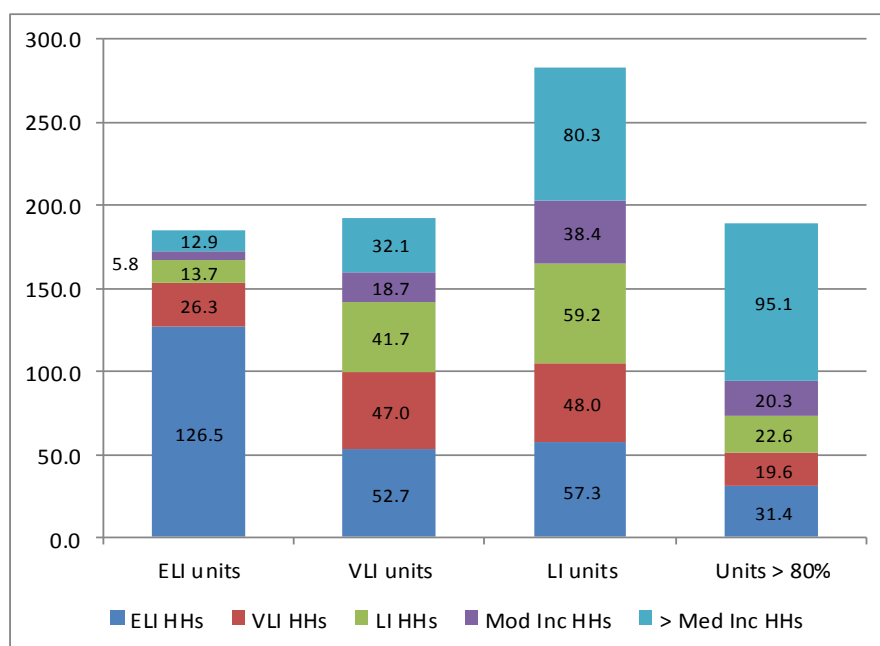
Includes vacant, but standard units (those with complete plumbing and kitchen).

Source: CHAS Table 15C, based on the 2005-2009 American Community Survey

Figure 7.5, showing who occupies the units that the lowest income renters could afford, illustrates why there are so many fewer available units than affordable units.

¹⁰⁰ By way of comparison, if each of the Commonwealth’s cities and towns met the ten percent threshold set by Chapter 40B, Massachusetts would have about 269,200 units that “count” on the Subsidized Housing Inventory (SHI or 40B list). Currently, there are 244,563 units that count (May 10, 2012 inventory). When only low income rental units are counted – those restricted to occupancy by households earning 80 percent of the area median income or less – the number drops to 189,800.

Figure 7.5: Who Occupies the Affordable Rental Units?



*Occupied units with complete kitchens and plumbing

Source: CHAS Table 15C, based on the 2005-2009 American Community Survey

(The information shown in Figures 7.4 and 7.5 at the state level can be found in **Appendix 7, Table 7.1** for each of the seven Benchmark regions.)

An assessment of the affordable rental units by bedroom size (number of bedrooms) indicates over 82 percent of the 0 and 1 bedroom units that are affordable to households earning 30 percent of AMI are occupied by such households, as are 61 percent of the VLI and 60 percent of the LI units. The percentage of units affordable to ELI (and VLI and LI) households that are occupied by such households is considerably lower for 2 and 3 bedroom (and larger) units. Fewer than half of the 3 bedroom units deemed affordable to a household earning 30 percent of AMI are occupied by ELI households. The higher ELI and VLI occupancy rate for 0 and 1 bedroom units likely reflects the fact that most such units are in public or subsidized developments restricted to occupancy by low income seniors. These trends are depicted in **Table 7.2**.

Previous research has identified varying degrees of “possible over-housing” in the assisted housing inventory, that is units where there are more bedrooms than people living in the unit (for example, a single person living in a 2 bedroom unit, or two people living in a 3 bedroom unit). This often occurs when residents in assisted housing age in place. The City of Boston’s *2010 Analysis of Impediments* reported that 1,200 households were “possibly over-housed” in BHA public housing developments according to this definition. HUD’s 2009 *Picture of Subsidized Households in Massachusetts* reported similar results: 11 percent of assisted households in all reporting programs had fewer members than the units they were renting had bedrooms. The share of “possibly over-housed” households ranged from 4 percent in units created under the Section 8 New Construction/Substantial Rehabilitation program to 7 percent in federal public housing and 17 percent in the Section 8 Certificate and Housing Choice Voucher

programs. Of course, this metric does not indicate whether there are circumstances that necessitate having extra units (for example, presence of a caregiver).

Table 7.2: Who Occupies the Affordable Rental Units by Bedroom Count?

	0 or 1 BR	2 BR	3 or more BR
Affordable for ELI	100.0%	100.0%	100.0%
Occupied by ELI	82.3%	63.2%	49.2%
Occupied by VLI	10.7%	15.0%	18.6%
Occupied by Low Inc	3.0%	8.0%	12.0%
Occupied by Mod Inc	1.4%	4.0%	5.8%
Occupied by > Median	2.6%	9.9%	14.5%
<i>% occupied by ELI</i>	82.3%	63.2%	49.2%
	0 or 1 BR	2 BR	3 or more BR
Affordable for VLI	100.0%	100.0%	100.0%
Occupied by ELI	30.9%	25.9%	23.5%
Occupied by VLI	30.5%	22.3%	24.4%
Occupied by Low Inc	18.2%	18.9%	19.6%
Occupied by Mod Inc	7.7%	11.8%	10.7%
Occupied by > Median	12.6%	21.2%	21.8%
<i>% occupied by ELI and VLI</i>	61.4%	48.2%	47.9%
	0 or 1 BR	2 BR	3 or more BR
Affordable for LI	100.0%	100.0%	100.0%
Occupied by ELI	23.1%	16.6%	18.8%
Occupied by VLI	17.5%	17.0%	16.0%
Occupied by Low Inc	19.8%	19.3%	18.1%
Occupied by Mod Inc	14.6%	13.9%	13.9%
Occupied by > Median	24.9%	33.2%	33.1%
<i>% occupied by ELI, VLI and LI</i>	60.4%	52.9%	52.9%

*Occupied units with complete kitchens and plumbing

Source: CHAS Table 15C, based on the 2005-2009 American Community Survey

A similar affordability gap analysis could be performed for homeowners, but it is not a very useful way to analyze owner affordability. While there are nearly 107,000 extremely low income homeowners, and another 131,000 very low income, most are seniors who purchased their homes decades ago, when their incomes were likely higher and home prices most assuredly lower. One would not expect homeownership to be a sustainable option for most very low, and extremely low, income households today, and that is exactly what the analysis shows.

Household Types with the Greatest Unmet Needs

The fact that a household is income eligible for housing assistance does not imply that it is seeking assistance or even that it has a compelling need for it. Indeed, our gap analysis suggests that nearly

400,000 low income renter households (in all three low income categories) lived in adequate housing that was priced no higher than what a household earning 80 percent of the area median income could afford (2005-2009 estimates). Still, that means more than 186,000 other households experienced what HUD calls “worst case needs,” unless they had a housing voucher to assist with their rent payment. These are extremely low and very low income renters with severe cost burdens (rent exceeding more than half their income).¹⁰¹ The number of severely cost burdened ELI and VLI renter households is estimated to now exceed 205,000.¹⁰²

While HUD does not consider homeowners with the same income and housing characteristics to have worst case needs, there were more than 120,000 homeowners who earned less than 50 percent of AMI and had severe cost burdens. That number is now estimated at 132,000.¹⁰³ Although older homeowners often prefer to remain in their homes for as long as possible, it is prudent from a policy and planning perspective to consider at least the 71,000 extremely low income, severely cost burdened homeowners in any estimate of households in need of affordable rental housing.

About 23 percent of the severely cost burdened ELI and VLI renter households are elders, 35 percent are small families, 5 percent are large families and 38 percent are other (non-elders, non-family). By comparison, elders renter households account for 31 percent of all ELI/VLI renters, small families account for 32 percent, large families are 5 percent, and other are 32 percent. The distribution of severely cost burdened owner households is 47 percent elders, 28 percent small families, 6 percent large families

¹⁰¹ HUD also includes in the category of “worst case needs” ELI and VLI renters who live in severely inadequate conditions. Because problems of housing quality are almost always accompanied by moderate or severe cost burdens, we have focused here on those with cost burdens.

¹⁰² HUD bases its housing needs estimates primarily on data from the biennial American Housing Survey, but to document needs at the local level policy makers generally use the most recent CHAS data, as we have done. Because the two sources employ different methodologies, the findings are not directly comparable. The Annual Community Survey on which the CHAS estimates are based does not distinguish between tenants receiving rental assistance or living in public or subsidized housing from those who receive no such assistance; the AHS does. As a result, the cost burdens of tenants who receive rental assistance in the form of vouchers is almost certainly overstated in the ACS estimates, if respondents answer according to the instructions. Thus it is more accurate, when comparing housing costs to household income based on the ACS or CHAS estimates, to say that costs “exceed” 30 or 50 percent of income, not that the household is paying that amount.

The Census Bureau’s Questionnaire Reference Book (QRB) provides the following guidance to survey workers regarding rent calculation: Include amounts paid by the government through subsidies or vouchers. For example, if the renter pays \$400 and the government pays \$200 through a subsidy or voucher, report the rent as \$600. What percent of income that rent translates to is calculated by the Census Bureau based on the respondent’s answer to the question of household income. Gross rent is the contract rent plus the estimated average monthly cost of utilities (electricity, gas, and water and sewer) and fuels (oil, coal, kerosene, wood, etc.) if these are paid by the renter (or paid for the renter by someone else).

¹⁰³ The current 50% (very low income) limit ranges from a low of \$21,450 for a single person in the New Bedford area to a high of \$38,300 on Nantucket; for a four person-household, the range is from a low of \$30,600 (New Bedford) to a high of \$54,700 (Nantucket). For the most populous region of the state, the Boston-Cambridge-Quincy metro area, the single person limit is \$33,050 and the four person limit is \$47,200. The full set of income limits for HUD programs in Massachusetts are found at <http://www.huduser.org/portal/datasets/il/il13/ma.pdf>

and 19 percent other. This compares to an overall ELI/VLI owner distribution that is 60 percent elders, 21 percent small family, 4 percent large family, and 15 percent other.

Between 2000 and 2005-2009, there were modest shifts in the type of households experiencing severe housing needs. The most notable was the decline in family households with 5 or more members, but as reported Chapter 2, there are significant differences in household size by race and ethnicity. Nearly 18 percent of Latino renter households, 11 percent of Black and 9 percent of Asian have five or more members compared to less than 4 percent of non-Hispanic White households. Non-elders, non-family renters (other) have the highest rate of severe cost burden, and they represent the largest share of renter households with such burdens. They are also the most common household type among ELI and VLI renters.

Among ELI and VLI owners, large families have the highest rate of severe cost burden, but they represent a very small share of all households. Householders age 62 and over represent the largest share of owner households with severe cost burdens. **Table 7.3** presents the breakout of ELI-VLI households by region by household type, tenure and incidence of severe cost burdens.

Table 7.3: Distribution of “Worst Case” Needs: ELI and VLI Households with Severe Cost Burdens

	Each Household type's share of ELI and VLI Households				Percent of Each Household Type w Severe Cost Burdens				Household type's share of All Households with SCBs			
RENTERS												
Region	Elderly	Small family	Large family	Other	Elderly	Small family	Large family	Other	Elderly	Small family	Large family	Other
Berkshire	35.1%	31.3%	1.3%	32.3%	29.7%	39.0%	65.1%	49.8%	26.3%	30.8%	2.2%	40.7%
Boston	30.5%	31.2%	4.3%	34.0%	33.7%	50.4%	44.7%	54.6%	22.2%	33.8%	4.1%	39.9%
Cape & Islands	38.4%	23.8%	3.4%	34.5%	34.1%	56.6%	42.7%	50.4%	28.8%	29.7%	3.2%	38.3%
Central	33.0%	32.4%	4.4%	30.3%	31.5%	45.7%	49.5%	46.3%	25.1%	35.8%	5.2%	33.8%
Northeast	33.9%	33.1%	5.4%	27.6%	32.5%	51.3%	41.5%	49.0%	25.2%	38.7%	5.1%	30.9%
Pioneer Valley	25.5%	34.2%	5.5%	34.8%	29.6%	44.9%	46.8%	49.0%	17.7%	36.1%	6.0%	40.1%
Southeast	32.6%	33.4%	4.4%	29.6%	29.9%	51.0%	43.0%	50.6%	22.3%	39.0%	4.3%	34.3%
MASSACHUSETTS	31.1%	32.1%	4.5%	32.3%	32.3%	49.2%	44.9%	51.7%	22.5%	35.4%	4.6%	37.5%
OWNERS												
Region	Elderly	Small family	Large family	Other	Elderly	Small family	Large family	Other	Elderly	Small family	Large family	Other
Berkshire	57.3%	20.9%	3.3%	18.5%	31.2%	49.3%	54.9%	62.6%	43.0%	24.8%	4.3%	27.8%
Boston	60.0%	20.5%	4.3%	15.2%	44.4%	69.7%	74.6%	65.6%	49.2%	26.4%	5.9%	18.5%
Cape & Islands	64.5%	16.7%	1.7%	17.1%	45.9%	71.4%	85.1%	67.7%	54.3%	21.8%	2.7%	21.2%
Central	57.9%	22.0%	5.0%	15.0%	35.8%	64.0%	68.1%	58.6%	44.0%	30.0%	7.3%	18.7%
Northeast	58.7%	22.0%	4.5%	14.7%	40.4%	66.7%	75.4%	67.1%	45.9%	28.4%	6.6%	19.1%
Pioneer Valley	58.5%	21.4%	4.8%	15.3%	29.6%	60.5%	69.1%	60.9%	40.4%	30.2%	7.7%	21.7%
Southeast	61.9%	21.6%	3.7%	12.9%	38.6%	72.1%	62.6%	73.1%	46.7%	30.4%	4.5%	18.4%
MASSACHUSETTS	59.9%	21.0%	4.2%	15.0%	39.7%	67.2%	71.0%	65.5%	46.9%	27.8%	5.9%	19.4%

Source: 2005-2009 CHAS tabulations

Extent of Housing Problems Varies by Race/Ethnicity

Families and households of color, particularly Blacks and Latinos, are more likely to be low income than their White counterparts. **(Figure 7.7)** They are also more likely than Whites to experience housing problems such as cost burdens or inadequate conditions as Figures 4.7 and 4.8 in Section 4 illustrated.

The greatest concentration of extremely low and very low income renters – and those with worst case needs – live in the large cities in Boston’s Inner Core (Boston, Cambridge, Lynn, Quincy) and the regional urban centers (Gateway cities such as Springfield, Worcester, Fall River, New Bedford, Lawrence, and Lowell. The cities with the most ELI and VLI renters with cost burdens and/or other housing problems varies by race/ethnicity. As **Table 7.4** shows, the majority minority cities of Lawrence, Holyoke, Brockton, and Chelsea Black and Latino host a higher share of the Commonwealth’s Black and Latino households with housing problems, while Fall River, New Bedford, Quincy, and Somerville are home to a greater number of White households with housing problems.

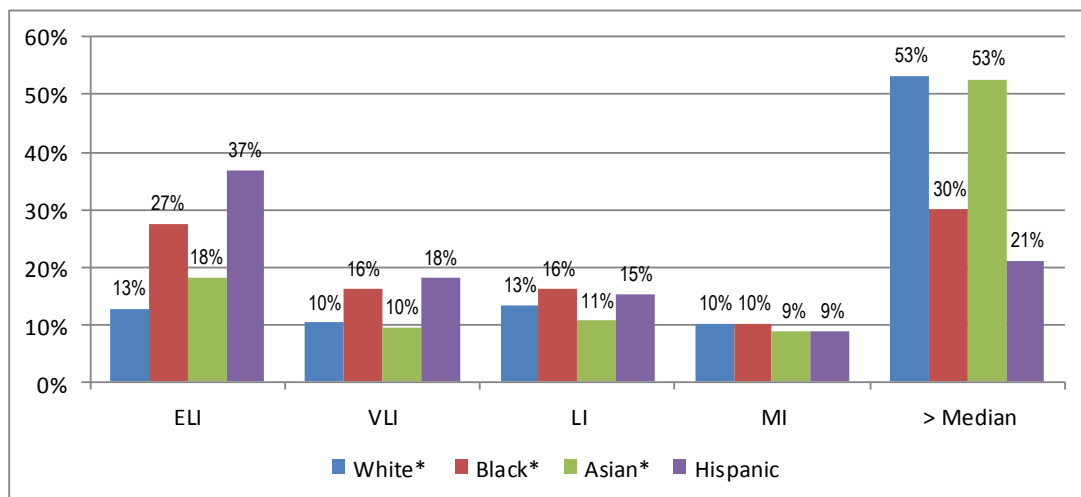
Table 7.4: Cities with the Greatest Number of Renter Households by Race, Income and Housing Problems

	All Renters	All ELI and VLI Renters	All ELI and VLI Renters w Problems	White ELI and VLI Renters w Problems	Black and Latino ELI and VLI Renters w Problems
1	Boston	Boston	Boston	Boston	Boston
2	Worcester	Springfield	Springfield	Fall River	Springfield
3	Cambridge	Worcester	Worcester	Worcester	Lawrence
4	Springfield	Fall River	Fall River	New Bedford	Worcester
5	Fall River	Cambridge	Cambridge	Quincy	Lynn
6	Somerville	Lynn	New Bedford	Cambridge	Holyoke
7	New Bedford	Lowell	Lynn	Lowell	Cambridge
8	Quincy	New Bedford	Lawrence	Somerville	Brockton
9	Lowell	Lawrence	Lowell	Lynn	Chelsea
10	Lynn	Quincy	Quincy	Springfield	Lowell

Housing problems include cost burden greater than 30 percent of income and/or overcrowding or lacking complete kitchen or plumbing facilities.

Source: 2009 CHAS Table 1.

Figure 7.7: Distribution All Households by Race/Ethnicity and Income



Source: 2005-2009 CHAS tabulations

Additional Considerations: Age of Housing Stock and Impact on Persons with Disabilities and Families with Children

The disproportionately older housing stock in Massachusetts continues to disparately and adversely impact persons with mobility impairments, as well as children under 6 who are vulnerable to lead paint poisoning. ACS estimates (2007-2011) show that approximately 86% of housing units in Massachusetts were built prior to 1990, and therefore prior to accessibility requirements imposed on housing developments (although units that were substantially rehabilitated since then may have triggered accessibility requirements pursuant to applicable accessibility codes). Such estimates are even more striking in older cities, which contain a significant number of housing units, such as Springfield (95.1%), New Bedford (94.5%), Worcester (90.8%), Lawrence (89.3%), and Boston (89.9%).

It is very difficult to estimate the number of units that were constructed or converted to accessible units, as such data is not collected by the U.S. Census Bureau for the decennial Census or ACS, the primary sources for data analysis on housing units. The American Housing Survey now collects data on “home accessibility problems reported”¹⁰⁴ and “accessibility features in home,”¹⁰⁵ although such data has been made available for only some Metropolitan Statistical Areas in the country, none of which are in Massachusetts. For approximations on units with accessibility features as marketed through the MassAccess registry, see **Inset 2.3** above.

Accessibility modifications have also been made to non-accessible units, and information on the benefits of such improvements has been documented. MRC’s Impact Assessment of the Massachusetts Home Loan Modification Program, which provides loans that homeowners can make access modifications to remain in their homes, indicates significant positive outcomes.¹⁰⁶ Over 750 households have been assisted, and the most common modifications have been changes to bathroom features (27%) followed by ramps (16%), and bed/bath additions (14%).¹⁰⁷ Health related impacts reported by beneficiaries include reduced injury (78%), better hygiene (57%), more rapid fire egress (49%), and better attendance at medical appointments (36%) among other benefits.¹⁰⁸ Social impacts reported included a greater sense of personal dignity (71%), greater sense of freedom (68%), and a greater sense of privacy (61%) among others.¹⁰⁹

¹⁰⁴ Defined as reaching kitchen cabinets, opening kitchen cabinets, use of kitchen counters, use of stove, getting to the bathroom, turning faucets on and off, using the sink, getting into or out of the bathtub, and getting into or out of the walk-in shower. 2011 American Housing Survey.

¹⁰⁵ Defined as ramps, extra wide doors or hallways, floors with no steps between rooms, elevators, hand rails or grab bars on steps, hand rails or grab bars in bathroom, hand rails or grab bars in other areas, entry level bedroom, entry level bathroom, built-in seats in shower, raised toilets, handles on doors instead of knobs, handles or levers on sinks, roll-out trays or lazy susans in cabinets, and additional wheelchair accessible features available (referring to electrical outlets, electrical switches, climate controls, kitchen cabinets, counter tops, other kitchen features, and bathrooms. Ibid.

¹⁰⁶ Massachusetts Rehabilitation Commission in collaboration with CEDAC, “Program Impact Evaluation Report: MA Home Modification Loan Program,” <http://www.mass.gov/mrc/hmlp>.

¹⁰⁷ Ibid. (The program has also been used for door widening (13%, kitchen (9%), lift installation (8%), door hardware (2%), and other (11%).

¹⁰⁸ Ibid.

¹⁰⁹

ACS estimates also show that over 75% of housing units were built prior to 1980, and therefore more likely to contain lead paint (applicable to housing units built before 1978) and negatively impact families with children. The risk of lead paint exposure is compounded in cities with sizeable older housing stock. Massachusetts data from the Centers for Disease Control and Prevention (“CDC”) shows that in 2008, over 0.50% of children tested were confirmed as having elevated blood lead levels.¹¹⁰ Certain counties experienced higher levels, however, with four counties, including Suffolk and Hampden counties, over 0.6%.¹¹¹ Moreover, a recent change in standards will broaden the prevalence of problematic blood levels. The federal Advisory Committee on Childhood Lead Poisoning Prevention released report on January 4, 2012 recommending the use of less than 10 µg/dL instead of 5 µg/dL as the appropriate “reference value.” In response, the Massachusetts Department of Public Health (“MDPH”) has committed to expand case notification services, although elimination of federal funding made it infeasible for MDPH to conduct environmental investigations for all children with blood levels 5-9 µg/dL.¹¹²

Families with children or households in need of two or more bedrooms (including for live-in aides) not only face obstacles in terms of lead-free housing, but may also face obstacles in terms of accessible housing with an adequate number of bedrooms. Although comprehensive housing market data is not available to measure the extent of this issue, DHCD 20100 data on private housing with public subsidy indicates that approximately 73% of accessible units, as reported,¹¹³ contain less than two bedrooms.

Assisted Housing in Massachusetts: What Counts? Who is Assisted? Where Do They Live?

What counts as subsidized housing, or housing assistance, depends on whom you ask and for what purpose. The state’s Subsidized Housing Inventory, HUD’s Picture of Subsidized Households and the data collected by the Department of Housing and Community Development (DHCD) under the 2006 Data Collection Act – also called the Massachusetts Government Assisted Housing Database – are the three most comprehensive sources of information on housing assistance programs. Each of the three is used for different purposes, however, and they include different types of housing assistance.

What Counts

The Subsidized Housing Inventory

The Department of Housing and Community Development (DHCD) maintains the state’s official tally of units that qualify as affordable housing on its Subsidized Housing Inventory (SHI, or “40B” list). These are the units that count toward a municipality’s 10 percent goal under Massachusetts General Law Chapter 40B, the State’s Comprehensive Permit Statute.¹¹⁴ To be included on the SHI, housing must

¹¹⁰ CDC Healthy Homes and Lead Poisoning Prevention, <http://www.cdc.gov/nceh/lead/data/state/madata.htm>.

¹¹¹ Ibid.

¹¹² Massachusetts Department of Public Health letter to clinical partners, “Re: New Recommendations from CDC on Blood Levels in Children,” July 20, 2012.

¹¹³ See section IV.7 below for further description of data collected by DHCD.

¹¹⁴ “An Act Providing for the Construction of Low and Moderate Income Housing in Cities and Towns in Which Local Restrictions Hamper Such Construction” was enacted in 1969 as Sections 20-23 of MGL Chapter 40B, the state’s Regional Planning Law, to increase the supply and improve the distribution of housing for low and moderate income families. It allows developers of subsidized housing to apply for all necessary local approvals in the form of

involve some government subsidy, even if just in the form of technical assistance. What constitutes an eligible “subsidy program” has changed over time, as have the production tools, but it is now broadly defined to include local initiatives that involve only minimal technical support provided by DHCD and developments financed by conventional lenders under the Federal Home Loan Bank of Boston’s New England Fund in addition to traditional government subsidy programs.

The inventory includes rental as well as ownership housing, group homes, and existing homes that are repaired or upgraded using state or federal resources, as long as the occupant is income eligible. In rental projects, all units count, including the market rate ones; in homeownership projects, only the affordable units count. Households subsidized with tenant based rental assistance are not included in the Inventory nor are those first-time homebuyers who purchased homes with mortgages granted under MassHousing programs or the state’s Soft Second mortgage program.

Almost 245,000 units, representing 9.1 percent of the state’s year round housing stock qualified as subsidized housing on the May 10, 2012 Subsidized Housing Inventory. Approximately 88 percent of the units that “count” (more than 214,000 units, or 8 percent of all year round housing units) are income restricted to households earning no more than 80 percent of the area median income (AMI).¹¹⁵

Nearly 190,000 of the low income units are rental; over 6,000 are homeowner units. Another 3,000 units qualified when their income-eligible owners, or landlords on behalf of income-eligible tenants, repaired or upgraded their homes with public funds. Beds in group homes serving special populations, most under contract with the state Departments of Mental Health and Developmental Services, account for nearly 15,000 units. Most of these group homes were added to the inventory after 2002 when a DHCD rule change first allowed their inclusion, although many had been serving the same residents for years. Over 33,000 of the rental units that count on the inventory are market rate units in mixed income developments. These units are not restricted to occupancy by low income households and are not included in the “nearly 190,000” figure.

Massachusetts Data Collection Act

The second major dataset of assisted housing exists as the result of the passage of Chapter 334 of the Acts of 2006 (An Act Relative to Data Collection for Government Assisted Housing in Massachusetts). Commonly known as the Data Collection Act, Chapter 334 was intended to help DHCD affirmatively further fair housing by providing the agency with information with which to analyze and evaluate its various housing programs. It requires DHCD to collect, and report annually to the Legislature, the

a single “comprehensive permit” and to request overrides of local zoning and other restrictions if necessary to make the housing economically feasible. In communities where less than 10 percent of the year-round housing is subsidized and little progress is being made, developers can ask the State Housing Appeals Committee (HAC) to overturn local denials of a comprehensive permit or the imposition of conditions they believe make a project infeasible, absent a finding that the project presents serious health or safety hazards.

The statute can be found at <http://www.mass.gov/dhcd/components/SCP/ch40Bsr.htm>. The 40B implementing regulations are found in Section 760 Chapters 30 and 31 of the Code of Massachusetts Regulations (CMR). 760 CMR 30.00 is the Procedural Regulations of the Housing Appeals Committee and 760 CMR 31.00 is the Housing Appeals Committee: Criteria for Decisions under MGL Chapter 40B, Sections 20-23. Regulations for the Local Initiative Program are found at 760 CMR 45.00. Guidelines that provide the methodology for inclusion on the Subsidized Housing Inventory are available at <http://www.mass.gov/hed/docs/dhcd/legal/comprehensivepermitguidelines.pdf> (see part II).

¹¹⁵ The number of income restricted rental units is not reported on the Subsidized Housing Inventory. The estimates are based on the author’s own tracking system. (Owner units are only included on the inventory if they are income restricted.)

number and location of assisted housing units in Massachusetts and the characteristics of residents receiving assistance. Reporting requirements apply to state funded public housing and privately owned housing that is supported by state or federal subsidies, including federal funds administered by the state.

The implementing regulation requires DHCD to collect information on unit characteristics, including address, tenure, type of building, type of housing (e.g. elders, disabled, family, special/service needs, mixed), number of bedrooms, numbers accessible for mobility impairments and for sensory impairments, and the source and terms of any and all subsidy. It must also collect household data, including income level, race and ethnicity, household type, number of children under age 6 and between age 6-18, and number of households that requested and that received an accessible unit.¹¹⁶ The first comprehensive analysis of data reported under the Act was conducted by Nancy McArdle in 2009 for the non-profit Action for Regional Equity. Highlights of Ms. McArdle's analysis of the 2008 data are presented in **Inset 7.1**. There are five broad categories of assistance for which data are reported:

- State public housing, reported by local housing authorities (LHAs)
- Privately owned state assisted units (publicly subsidized through the state), reported by project owners/managers
- Tenant based mobile vouchers, reported by administering LHAs and regional non-profit agencies (these include all of the state mobile vouchers, as well as those federal mobile vouchers that are administered by regional nonprofits (the majority of federal vouchers are administered directly by local public housing authorities.)
- Project-based (PB) vouchers, reported by administering LHAs and regional non-profit agencies (These include all of the state PB vouchers and those federal PB vouchers that are administered by regional nonprofits.)
- Homeownership loans (current year only), reported by MassHousing, the Massachusetts Housing Partnership (MHP) and DHCD

As part of its preparation of this Analysis of Impediments to Fair Housing, DHCD authorized an analysis of the data collected for calendar year 2011, the most current year available at the time the AI was commenced. Data on 168,413 units were collected in 2011, an increase of nearly 15 percent over the 146,676 reported for 2008. The subsidy program categories and corresponding number of units for which data were reported in 2011 are shown in **Table 7.5**. Specific programs subject to the Data Collection Act are shown in **Table 7.6**.

¹¹⁶ The statute is found at <http://www.malegislature.gov/Laws/SessionLaws/Acts/2006/Chapter334>; the implementing regulations are found in Section 760 Chapter 61 of the Code of Massachusetts Regulations (CMR).

Table 7.5: Summary of Data Reported Under Chapter 334 of the Acts of 2006 (Data Collection for Government Assisted Housing in Massachusetts), 2008 and 2011

Program Type	Number of Units Reporting	
	2008	2011
Privately-Owned/Publicly-Subsidized	81,774	95,189
State Public Housing	37,541	41,517
<i>Family</i>	NA *	13,921
<i>Elderly/Disabled</i>	NA *	27,322
<i>Special Needs</i>	NA *	274
DHCD Mobile Sec. 8 (Federal Mobile Asst. Admin. thru Regional Non-Profits)	19,660	21,579
MassHousing Homeownership***	1,865	1,437
State Project-Based Asst. Admin. thru Local Housing Authorities (LHAs)	1,854	2,317
State Project-Based Asst. Admin. thru Regional Non-Profits	647	1,157
State Mobile Asst. Admin. thru LHAs	1,383	1,618
State Mobile Asst. Admin. thru Regional Non-Profits	987	869
DHCD Project-Based Asst. Admin. thru Regional Non-Profits	478	1,663
MHP Soft Second	406	193
DHCD Homeownership	81	21
TOTAL	146,676	167,560

Note: Some units are subsidized by more than one program type, resulting in some degree of double counting. This typically occurs when tenants use a state administered housing voucher to rent a home in a privately-owned, publicly subsidized units.

*Not specified in report for Action for Regional Equity by Nancy McArdle analyzing 2008 data (*State-Assisted Housing and Rental Assistance in Massachusetts: Who is Served and Where?* May 2010).** MassHousing reported an additional 55 home improvement, lead paint abatement and septic repair/replacement loans in 2011, not included in summary.

Source: DHCD 2008, 2011 Housing Data Collection (2008 summaries provided by Nancy McArdle)

Table 7.6: Programs Covered by Massachusetts Data Collection Act

Subsidy Program	Administering Agency
Housing Innovation Fund (HIF)	DHCD
HOME	DHCD
Housing Stabilization Fund (HSF)	DHCD
4% Low Income Housing Tax Credits (4% LIHTC)	MassHousing, MassDev
9% Low Income Housing Tax Credits (9% LIHTC)	DHCD
Mass Housing Partnership (MHP) Loan	MHP
Tax Exempt Financing	MassHousing, MassDev
Taxable Financing	MassHousing
Facilities Consolidation Fund (FCF)	DHCD
Capital Improvement and Preservation Fund (CIPF)	DHCD
Transit Oriented Development Fund (TOD)	DHCD
MA State Low Income Housing Tax Credit (SLIHTC)	DHCD
Affordable Housing Trust Fund (AHTF)	DHCD
Commercial Area Transit Node Housing Program (CATNHP)	DHCD
Community Based Housing (CBH)	DHCD
McKinney	DHCD
Section 13A Interest Subsidy	MassHousing
Section 236 Interest Subsidy	MassHousing
PriorityDevelopment Fund (PDF)	MassHousing
SHARP	MassHousing
RDAL	MassHousing
Options Program	MassHousing
HUD Section 8 (project-based) and 202 programs	MassHousing (incl, contract admin)
Other rental assistance	DHCD; MassHousing

Source: DHCD

Eight regional non-profit organizations that administer federal and state housing vouchers (either project-based or tenant-based (mobile) on behalf of DHCD, are subject to the reporting requirements as are the owners/managers of more than 1,500 privately-owned subsidized developments. In addition, 207 local housing authorities administer programs that are covered by the Data Collection Act. Fifty-five percent of the reporting housing authorities reported data only on state public housing units they own. The others reported on some combination of units and vouchers, either project-based or mobile. (The number of reporting housing authorities may vary from year to year depending on their program participation.) The reporting nonprofits are Berkshire Housing Development Corporation, Community Teamwork Inc., HAP, Housing Assistance Corporation, Metro Boston Housing Partnership, RCAP Solutions, South Middlesex Opportunity Council (SMOC), and South Shore Housing Development Corporation.

Inset 7.1: 2008 Data Analysis and Findings

In a May 2010 report, *State-Assisted Housing and Rental Assistance in Massachusetts: Who is Served and Where?*, author Nancy McArdle reported the findings of her analysis of the 2008 State Assisted Housing Database. The report, which was prepared for the non-profit Action for Regional Equity, used as its framework for evaluating the access of assisted households to geographies of opportunity, the framework McArdle and the Kirwan Institute researchers had pioneered a year earlier.

The 2008 DHCD data collection process yielded information on nearly 150,000 units and/or households. (Not included in this total were the approximately 55,000 federal vouchers and 33,000 federal public housing units that are administered directly through local housing authorities, although McArdle analyzed these units based on HUD-reported data.) Based on this 2008 data, McArdle concluded that the geographic patterns of racial/ethnic minority groups in subsidized housing were no worse, and in some cases somewhat better, than the strongly segregated patterns of racial/ethnic minority households overall, noting that the Kirwan researchers found that more than 90 percent of African-American and Latino households overall, subsidized or not, were isolated in the lowest-opportunity neighborhoods in the Commonwealth in 2000.

Other major findings from 2008 include:

- The demographic characteristics of most major rental assistance programs in Massachusetts are consistent with demographics of the state's extremely-low-income renters, with 61 percent of family units and 13 percent of elders/disabled units headed by a person from a racial/ethnic minority group.
- In all major rental assistance program types, the majority of households are extremely-low-income (less than 30% of area median income,) with 81% of state public housing households in this income category.
- Assisted rental housing is disproportionately located in lower-opportunity areas. Statewide, 40% of census tracts are designated as lower-opportunity areas according to the Kirwan Institute opportunity index, which includes 19 measures of housing, educational, and economic opportunity. However, 70% of privately-owned/publicly-subsidized units, and 72% of federal Section 8 units administered by regional non-profits are located in these lower-opportunity areas.
- 72 percent of all HUD-assisted rental units, including those administered through the state and those administered directly by local housing authorities, are located in lower-opportunity areas, with Hispanic (91%) and black (85%) tenants much more likely to be in these areas than white tenants (58%).
- 27 percent of elders/disabled state public housing units, which serve predominantly white households without children, are in lower-opportunity areas; 61 percent of family public housing units, which serve predominantly racial/ethnic minority group households with children, are in such areas.

- The odds that assisted racial/ethnic minority group households, especially Hispanics, reside in lower-opportunity areas are many times the odds that whites live in such areas. For example, the odds that Hispanics in privately-owned/publicly subsidized units live in lower-opportunity areas are almost
- 8 times the odds of whites living in such areas. Income levels and presence of children do not explain the disparities in the odds of living in lower-opportunity areas between racial/ethnic minority groups and whites. Controlling for such factors makes little difference in the unequal odds of living in lower-opportunity areas.
- Households with children are more likely to live in lower-opportunity areas than those without children. This disparity is related to, but not as dramatic as, disparities by race/ethnicity. In general, units with more bedrooms are more concentrated in lower-opportunity areas than are smaller units. Within the state public housing stock, however, this pattern mainly reflects the fact that family units, which tend to have more bedrooms, are more likely to be in lower-opportunity areas than are elders/disabled units, which tend to be smaller. For family state public housing, almost two-thirds of units are located in lower-opportunity areas, regardless of size. For elders/disabled public housing, less than one-third of units are in lower-opportunity areas, regardless of size.

HUD's Picture of Subsidized Households

The final data source reviewed as part of the AI process is the federal Department of Housing and Urban Development's Picture of Subsidized Households, issued annually. This extensive national dataset – nearly five million records are included in the 2009 report – provides characteristics on HUD assisted housing units and households, which can be summarized in a variety of ways (e.g., by geography at the state, local or census tract level, or by program type or administering agency).¹¹⁷

The 2009 Picture of Subsidized Households (the most recent) provides a snapshot of more than 190,000 Massachusetts households that received federal housing assistance that year.¹¹⁸ The HUD data is similar to what is collected under the state requirements and the reporting format is similar as well. Included in the HUD count were residents living in 33,000 federal public housing units and 83,000 privately-owned, federally subsidized units and more than 74,000 households who received rental assistance in the form of Section 8 certificates or housing vouchers.

The federal public housing units included in the HUD dataset are not subject to the state reporting requirements, but there is substantial duplication in the privately-owned subsidized housing and the

¹¹⁷ These HUD datasets are prepared by the agency's Office of Policy Development and Research. Household data are aggregated by program at various the geographic summary levels and by local public housing agency (PHA). Covered programs include (but are not limited to) public housing, Housing Choice Vouchers, Section 8 project-based housing, New Construction and Substantial Rehabilitation, and the Section 202 and 811 Supportive Housing programs.

¹¹⁸ Some duplication has been identified in the HUD database, mostly involving developments originally funded under one program and subsequently assisted under another, for example, a Section 236 development that later received Low Income Housing Tax Credits.

tenant-based rental assistance. The 20,000+/- federal Housing Choice Vouchers DHCD receives annually from HUD, which are administered by the regional nonprofit agencies on DHCD's behalf, are included in the 74,000 households on which HUD reports. The DHCD units cannot be broken out from the units HUD allocates directly to local housing authorities at the census tract or municipal level.

Who Receives Housing Assistance?

Characteristics of Residents Receiving Assistance Under Programs Covered by Massachusetts Reporting Requirements

Table 7.7 summarizes the characteristics of the residents and units in subsidized housing for which information was collected for 2011 under the Data Collection Act. The table is organized by the major program types: privately-owned/publicly-subsidized housing, state-aided family public housing, state-aided elders/disabled public housing, and those mobile vouchers covered by the Act. (Note: Placements are made in the state Chapter 667 program to achieve a mixed population of elders households in 86.5 percent of the units and persons with disabilities in 13.5 percent of the units, in accordance with the statute.)

Table 7.7: Summary of Unit, Resident Characteristics in Assisted Housing Covered by MA Data Collection Requirements, 2011

Characteristic	Privately-owned Subsidized	State Public Housing - Chapters 200 and 705	State Public Housing - Section 667	Mobile Vouchers Covered by Data Reporting Reqs. ^
# Units (in thousands)	95.2	13.9	27.3	24.1
% Accessible mobility	7%	2%	5%	--
% Accessible sensory	2%	7%	4%	--
% 0 or 1BR units	55%	7%	99%	28%
% 2BR units	31%	48%	1%	33%
% 3 or more BR units	14%	45%	--	40%
% Vacant	2%	6%	4%	--
% Occupied by ELI households (0-30%)	65%	84%	85%	87%
% Occupied by VLI households (31-50%)	19%	13%	13%	11%
% Occupied by LI households (51-80%)	15%	3%	2%	2%
% Occupied by households above 80% AMI	1%	0%	0%	0%
Single person household	56%	13%	92%	37%
2 or 3 person household	34%	58%	8%	42%
4 person household	10%	18%	0%	12%
5 or more person household	3%	11%	0%	9%
% Households w no children under 18	71%	34%	99%	52%
% Households w 1 child under 18	14%	26%	--	20%
% Households w 2 children under 18	10%	23%	--	15%
% Households w 3 or more children under 18	5%	17%	--	13%
One person, non-elderly household	23%	9%	14%	39%
Elderly household	41%	9%	79%	21%
Single parent household, dependent child(ren)	26%	54%	0%	23%
Two parent household, dependent child(ren)	4%	10%	0%	3%
All other households	5%	19%	7%	13%
White not Hispanic	47%	40%	85%	44%
Black not Hispanic	20%	15%	4%	28%
Asian not Hispanic	5%	6%	3%	2%
Hispanic, all races	25%	36%	7%	30%
Other race	2%	3%	1%	0%
Formerly homeless households	3%	--	--	--

*Includes only those tenant-based (mobile) state vouchers and federal tenant-based (mobile) Housing Choice vouchers administered by regional nonprofits on behalf of DHCD. The DHCD share of total federal Housing Choice Vouchers is about 29 percent.

Source: Calculations by Bonnie Heudorfer, based on DHCD 2011 Housing Data Collection

As Table 7.7 illustrates, state-assisted housing in Massachusetts serves a diverse group of extremely low income families and individuals. The extent of the racial and ethnic diversity varies by program. The residents of the state's elders/disabled public housing are overwhelmingly White (85%), as is the elder

poverty population. (Nearly 80 percent of households headed by someone age 65 or over and living in poverty are White.) The state family public housing and the privately-owned subsidized inventory serve a more diverse population. Sixty percent of those living in family public housing are households of color, as are 53 percent of those living in the privately-owned subsidized units. Family public housing includes a higher share of three or more bedroom units and serves a higher percentage of families with children, large families and single parent households than the privately owned housing does, but there are so many more units in the privately-owned inventory, it serves many more families.

Characteristics of Residents in Federally Assisted Housing Including Units Not Covered by Chapter 334

HUD's Picture of Subsidized Households provides information on the more than 190,000 Massachusetts households that received federal housing assistance in 2009. DHCD collected substantially similar information on many of these households as part of its 2009 data collection. The major difference is that the HUD data include some 33,000 federal public housing units not covered by the state statute and almost 75,000 federal housing vouchers, only a portion of which (22,000 in 2011) would have been reported to DHCD. In addition, there may be federally assisted privately-subsidized developments that are not required to report to DHCD because there was never any state involvement. (Conversely, there may be privately-subsidized developments captured by DHCD that had no federal involvement, and those would not be included in the HUD database.)

HUD reports that data were collected from 88 percent of its assisted households. These findings are summarized in **Table 7.8**. Because there is so much overlap, it is not surprising that the two datasets show similar patterns in terms of the race, ethnicity and income of households being served. HUD is able to collect more detailed information on disability status of assisted householders, and their family members, as the relevant HUD programs provide deductions for persons with disabilities for purposes of calculating income and rent, therefore providing a permissible basis for inquiring into disability.¹¹⁹ HUD has documents that 45 percent of all assisted householders (or their spouses) under age 62 reported having a disability as did 39 percent of those over age 62 (see Table 7.7). As was apparent in the state data, different programs have benefited different types of households. For example, Table 7.7 shows that a much higher percentage of the housing created under the Section 8 New Construction/Substantial Rehabilitation program is one bedroom apartments occupied by older White residents than is the case with housing produced under the earlier Section 236 program. The Section 8 program is much larger, however, so it serves more young families, children and racial/ethnic minority groups. DHCD has also attempted to collect disability-related data beyond what is required under Chapter 334. For example, DHCD collects data on household type, which includes single non-elders households, which is an estimated useful proxy for many households with disabilities, particularly in state-aided elders/disabled (Chapter 667) public housing, which is almost entirely 1 bedroom units, and requires placement of non-elders persons with disabilities for 13.5% of the units.

¹¹⁹ DHCD also collects data on income deductions for persons with disabilities in applicable state-aided public housing and state rental assistance programs; however, because the deductions only apply to some of the programs, the data is not as useful in comparison to the HUD data.

Table 7.8: Summary of Unit, Resident Characteristics in HUD-Assisted Housing in Massachusetts, 2009 Picture of Subsidized Households

Characteristic	All Reported Programs	Federal Public Housing	Section 8 Certificates and Vouchers	Section 8 New Construction/ Substantial Rehab	Section 236	All Other HUD Assisted Multi-Family
Total Units (in thousands)	190.5	33.2	74.6	38.6	6.6	37.5
Percent occupied^		94	97	94	93	93
Units with Data Reported (in thousands)	166.9	30.4	72.4	35.0	4.3	24.8
Percent of units reporting	88	92	97	91	65	66
People in Reported Units (in thousands)	329.4	57.2	167.0	48.8	9.2	47.2
Average Persons per Household	2.0	1.9	2.3	1.4	2.1	1.9
Average household income as % of area median family income	22	21	21	24	28	22
Percent of Households:						
w income of less than \$5,000 per yr	4	4	4	3	8	7
w income of \$5,000 - \$9,999 per yr	33	36	33	32	24	31
w income of \$10,000 - \$14,999 per yr	22	22	21	26	17	22
w income of \$15,000 - \$19,999 per yr	15	13	14	17	14	15
w income of \$20,000 per yr or more	23	21	24	22	37	24
w wages as majority of income	23	20	26	11	38	29
w welfare as majority of income	6	6	8	3	7	6
w some other source or combination as majority of income	74	73	73	86	51	63
w income below 50% area median income	93	89	94	94	86	94
w income below 30% area median income	75	75	77	73	63	75
w child(ren) under 18 and 2 spouses	4	4	3	3	13	10
w child(ren) under 18 and no spouse present	29	24	44	8	31	24
Headed by a female	74	67	81	68	75	73
Headed by a female, with child(ren) under 18, no spouse	32	25	45	10	39	30
Below age 62, either household head or spouse/cohead has a disability	44	46	46	56	21	27
Age 62 or older, either household head or spouse/cohead has a disability	29	41	60	14	17	17
w household head or spouse/cohead, 24 years or under#	3	3	2	2	11	7
w household head or spouse/cohead, 25 - 50 years old#	41	32	57	17	45	38
w household head or spouse/cohead, 51 - 61 years old#	19	21	23	12	16	15
w household head or spouse/cohead, 62 years or older#	36	42	16	69	28	40
w household head or spouse/cohead, 85 years or older#	5	4	1	14	4	6
Percent of Units with:						
1 Bedroom	47	58	28	77	39	50
2 Bedrooms	28	22	33	17	40	31
3 or More Bedrooms	24	19	37	5	21	19
Tenant contribution toward rent (include. Utilities)	\$376	\$335	\$407	\$343	\$509	\$357
Average federal spending per month	\$864	\$593	\$907	\$1,065	\$463	\$854
Total cost, tenant share plus federal share	\$1,239	\$928	\$1,314	\$1,408	\$972	\$1,211
White*		42	48	69	44	42
Black*		20	21	10	19	26
Asian*		6	2	4	2	6
Hispanic		31	29	16	34	26
Percent overhoused (more bedrooms than people)	11	7	17	4	9	10
Percent of census tract population that is minority	40	45	36	34	39	51
Percent of census tract population below poverty level	19	26	16	19	19	22

Notes:

^Occupied units as % of available; for vouchers, this is the utilization rate

* Not Hispanic

Whoever is older

Percentages may not sum to 100% due to rounding. Does not distinguish between units administered by DHCD, local housing authorities and other entities.

Source: Department of Housing and Urban Development, A Picture of Subsidized Households: 2009

<http://www.huduser.org/portal/picture/picture2009.html>

Demographic Characteristics of Households Receiving Federal or State Assistance Compared to the Income Eligible Population

The housing assistance resources that are available to assist low income families and individuals in Massachusetts have effectively targeted extremely low income and minority households. (This is true of programs that report resident characteristics directly to HUD as well as those that report to DHCD under the Massachusetts Data Collection Act.) **Table 7.9** summarizes in a single table the racial and ethnic breakdown of households assisted by major program category from both sources. The table also shows the racial and ethnic breakdown of the Commonwealth's extremely low and very low income households – the programs' intended beneficiaries – for comparison. Overall and in most program categories, Black and Latino households are assisted at a higher rate than Whites and Asians, based on each group's share of extremely low and very low income renter households.

Table 7.9: Distribution of Households Assisted with Federal and State Housing Subsidies by Race/ Ethnicity

	White*	Black*	Asian*	Hispanic	All other
ELI (<30%)	61%	11%	6%	20%	3%
ELI and VLI combined (<=50%)	62%	11%	5%	19%	3%
Privately-owned subsidized housing (2011 MA Data Collection)	47%	20%	5%	25%	2%
State family public housing (2011 MA Data Collection)	40%	15%	6%	36%	3%
State elderly/disabled public housing (2011 MA Data Collection)	85%	4%	3%	7%	1%
State mobile vouchers (2011 MA Data Collection)	44%	24%	2%	30%	0%
Federal public housing (2009 Picture of Subsidized Households)	42%	20%	6%	31%	1%
Total mobile vouchers (2009 Picture of Subsidized Households)	48%	21%	2%	29%	0%

Source: Calculations by Bonnie Heudorfer, based on DHCD's 2011 Housing Data Collection and HUD's 2009 Picture of Subsidized Households, 2005-2009 American Community Survey-based CHAS tabulations

Table 7.10 arrays the housing assistance programs in a similar way to illustrate their effectiveness at targeting the lowest income households. Of renter households earning no more than 80 percent of the area median income – those income eligible for housing assistance – nearly half (49%) are extremely low income, 26 percent are very low income and 25 percent are low income. Table 7.9 shows that all of the major categories of housing assistance overwhelmingly benefit extremely low income households.

Table 7.10: Distribution of Households Assisted with Federal and State Housing Subsidies by Income Category

	% ELI (≤30%)	% VLI (30.1-50%)	% LI (50.1- 80%)
Share of Income Eligible (≤80% AMI) Renter Households by Income Category	49%	26%	25%
Privately-owned subsidized housing (2011 MA Data Collection)	65%	19%	15%
State family public housing (2011 MA Data Collection)	84%	13%	3%
State elderly/disabled public housing (2011 MA Data Collection)	85%	13%	2%
State mobile vouchers (2011 MA Data Collection)	87%	11%	2%
Federal public housing (2009 Picture of Subsidized Households)	75%	14%	NA
Total mobile vouchers (2009 Picture of Subsidized Households)	77%	17%	NA

Source: Calculations by Bonnie Heudorfer, based on DHCD's 2011 Housing Data Collection and HUD's 2009 Picture of Subsidized Households, 2005-2009 American Community Survey-based CHAS tabulations.

Location of Subsidized Housing

Table 7.11 summarizes the distribution, by region, of housing assistance reported for 2011 under the Massachusetts Data Collection Act. This table demonstrates that the distribution of housing assistance (units and vouchers) closely reflects the distribution of need, based on each region's share of the state's extremely low and very low income renter households.

Tables 7.12 – Table 7.15 are more detailed versions of Tables 7.6 and 7.7, presenting the resident characteristics of those receiving housing assistance by program as well as by region. **Table 7.12** provides a snapshot of who is assisted in privately-owned subsidized housing, **Table 7.13** provides the same for state family public housing, **Table 7.14** for state elders/disabled public housing, and **Table 7.15** for tenants receiving mobile housing vouchers covered by Massachusetts Data Collection Act. (Table 7.14 does not include federal mobile vouchers administered by local housing authorities.)

Table 7.11: Distribution of Households Assisted with Federal and State Housing Subsidies by Region

Region	MASSACHUSETTS	Berkshire	Boston	Cape & Islands	Central	Northeast	Pioneer Valley	Southeast
% of State's ELI and VLI Renters	100%	2%	47%	2%	11%	13%	13%	13%
% of Assisted Units Reported under MA Data Collection Act, 2011*	100%	2%	48%	2%	10%	12%	14%	11%
% of State's Privately-owned Subsidized Housing	100%	2%	52%	2%	9%	11%	14%	10%
% of State Public Housing	100%	2%	42%	2%	10%	16%	13%	14%
% of Tenant-based Vouchers Covered by MA Data Collection	100%	2%	44%	4%	11%	11%	17%	11%

Source: Calculations by Bonnie Heudorfer, based on DHCD's 2011 Housing Data Collection and 2005-2009 American Community Survey-based CHAS tabulations.

Table 7.12: Summary by Region of Unit, Resident Characteristics: Privately Owned Subsidized Housing Covered by the MA Data Collection Requirements, 2011

Privately Owned Subsidized Housing								
Region	MASSA- CHUSETTS	Berkshire	Boston	Cape & Islands	Central	Northeast	Pioneer Valley	Southeast
# Units (in thousands)	95.2	2.0	49.1	1.7	8.8	10.1	13.6	9.7
% Accessible Mobility	7%	7%	7%	12%	9%	7%	5%	8%
% Accessible Sensory	2%	5%	2%	3%	3%	2%	2%	3%
% 0 or 1BR units	55%	65%	55%	68%	60%	57%	49%	55%
% 2BR units	31%	23%	29%	24%	27%	33%	34%	35%
% 3 or more BR units	14%	12%	16%	9%	13%	9%	17%	10%
% Vacant	2%	4%	2%	2%	3%	2%	3%	2%
% Occupied by ELI HHs (0-30%)	65%	59%	68%	55%	70%	58%	63%	61%
% Occupied by VLI HHs (31-50%)	19%	24%	18%	26%	22%	28%	17%	16%
% Occupied by LI HHs (51-80%)	15%	16%	13%	18%	8%	13%	20%	21%
% Occupied by HHs above 80% AMI	1%	0%	1%	1%	0%	1%	0%	1%
Single person HH	56%	68%	54%	68%	62%	57%	52%	57%
2 or 3 person HH	34%	25%	35%	25%	30%	34%	36%	35%
4 person HH	10%	5%	10%	7%	9%	9%	12%	8%
5 or more person HH	3%	3%	3%	2%	4%	2%	4%	2%
% HHs w no children under 18	71%	77%	72%	77%	75%	73%	64%	72%
% HHs w 1 child under 18	14%	11%	14%	12%	12%	13%	15%	14%
% HHs w 2 children under 18	10%	8%	9%	7%	9%	9%	12%	9%
% HHs w 3 or more children under 18	5%	4%	5%	4%	5%	4%	8%	4%
One person, non-elderly HH	23%	25%	24%	18%	22%	23%	26%	21%
Elderly HH	41%	49%	41%	55%	49%	42%	32%	44%
Single parent, dependent child(ren)	26%	19%	26%	16%	22%	23%	33%	24%
Two parents, dependent child(ren)	4%	4%	4%	5%	4%	5%	4%	4%
All other HHs	5%	3%	5%	5%	4%	7%	5%	7%
White not Hispanic	47%	86%	39%	82%	61%	56%	39%	68%
Black not Hispanic	20%	9%	29%	10%	9%	5%	13%	17%
Asian not Hispanic	5%	1%	8%	0%	2%	2%	1%	1%
Hispanic, all races	25%	3%	22%	3%	27%	35%	45%	10%
Other race	2%	1%	2%	5%	2%	2%	1%	4%
Formerly homeless HHs	3%	9%	3%	3%	2%	4%	2%	1%

Source: Calculations by Bonnie Heudorfer, based on DHCD 's Data Collection for Government Assisted Housing in Massachusetts, 2011

Table 7.13: Summary by Region of Unit, Resident Characteristics: State Family Public Housing Covered by the MA Data Collection Requirements, 2011

State Public Housing - Chapter 200 and 705 (Family)								
Region	MASSA- CHUSETTS	Berkshire	Boston	Cape & Islands	Central	Northeast	Pioneer Valley	Southeast
# Units (in thousands)	13.9	0.2	7.1	0.2	1.3	1.7	1.9	1.6
% Accessible Mobility	2%	2%	2%	4%	4%	2%	2%	1%
% Accessible Sensory	7%	3%	0%	15%	11%	0%	38%	1%
% 0 or 1BR units	7%	1%	6%	7%	8%	3%	12%	12%
% 2BR units	48%	55%	50%	20%	46%	48%	44%	41%
% 3 or more BR units	45%	44%	43%	73%	46%	49%	44%	47%
% Vacant	6%	3%	5%	2%	13%	5%	3%	11%
% Occupied by ELI HHs	84%	97%	83%	81%	83%	87%	87%	82%
% Occupied by VLI HHs	13%	3%	13%	14%	14%	10%	11%	15%
% Occupied by LI HHs	3%	0%	4%	5%	3%	2%	2%	3%
% Occupied by HHs above 80% AMI	0%	0%	0%	0%	0%	0%	0%	0%
Single person HH	13%	7%	15%	5%	8%	11%	14%	9%
2 or 3 person HH	58%	69%	57%	53%	63%	63%	55%	59%
4 person HH	18%	15%	17%	23%	19%	18%	23%	19%
5 or more person HH	11%	8%	11%	21%	9%	8%	12%	13%
% HHs w no children under 18	34%	19%	40%	13%	28%	31%	16%	32%
% HHs w 1 child under 18	26%	38%	25%	20%	22%	29%	30%	25%
% HHs w 2 children under 18	23%	29%	21%	36%	25%	25%	29%	24%
% HHs w 3 or more children under 18	17%	13%	13%	30%	25%	16%	25%	19%
One person, non-elderly HH	9%	4%	9%	4%	11%	12%	7%	5%
Elderly HH	9%	3%	10%	4%	5%	8%	7%	6%
Single parent, dependent child(ren)	54%	77%	49%	63%	54%	54%	63%	61%
Two parents, dependent child(ren)	10%	11%	11%	19%	11%	9%	8%	8%
All other HHs	19%	5%	21%	11%	20%	17%	15%	20%
White not Hispanic	40%	76%	39%	75%	38%	42%	29%	46%
Black not Hispanic	15%	10%	19%	7%	8%	5%	12%	21%
Asian not Hispanic	6%	1%	10%	1%	1%	2%	1%	2%
Hispanic, all races	36%	11%	31%	10%	39%	51%	55%	29%
Other race	3%	2%	1%	6%	13%	1%	2%	1%

Source: Calculations by Bonnie Heudorfer, based on DHCD 's Data Collection for Government Assisted Housing in Massachusetts, 2011

Table 7.14: Summary by Region of Unit, Resident Characteristics: State Elderly/Disabled Housing Covered by the MA Data Collection Requirements, 2011

State Public Housing - Chapter 667 (Elderly/Disabled)								
Region	MASSA- CHUSETTS	Berkshire	Boston	Cape & Islands	Central	Northeast	Pioneer Valley	Southeast
# Units (in thousands)	27.3	0.7	10.2	0.7	2.9	4.9	3.6	4.4
% Accessible Mobility	5%	3%	4%	4%	13%	4%	5%	6%
% Accessible Sensory	4%	2%	0%	8%	14%	1%	14%	2%
% 0 or 1BR units	99%	99%	99%	91%	99%	100%	98%	100%
% 2BR units	1%	1%	1%	9%	1%	0%	2%	0%
% Vacant	4%	2%	5%	12%	5%	3%	2%	4%
% Occupied by ELI HHs	85%	92%	88%	86%	82%	87%	86%	75%
% Occupied by VLI HHs	13%	7%	10%	7%	16%	11%	13%	21%
% Occupied by LI HHs	2%	1%	2%	7%	2%	2%	1%	4%
% Occupied by HHs above 80% AMI	0%	0%	0%	0%	0%	0%	0%	0%
Single person HH	92%	94%	90%	90%	93%	92%	93%	93%
2 or 3 person HH	8%	6%	10%	10%	7%	8%	7%	7%
4 person HH	0%	0%	0%	0%	0%	0%	0%	0%
5 or more person HH	0%	0%	0%	0%	0%	0%	0%	0%
% HHs w no children under 18	99%	100%	100%	100%	99%	100%	100%	95%
One person, non-elderly HH	14%	9%	13%	10%	14%	17%	17%	13%
Elderly HH	79%	86%	80%	76%	81%	77%	78%	76%
Single parent, dependent child(ren)	0%	0%	0%	0%	0%	0%	0%	0%
Two parents, dependent child(ren)	0%	0%	0%	0%	0%	0%	0%	0%
All other HHs	7%	5%	7%	14%	5%	7%	4%	11%
White not Hispanic	85%	98%	81%	92%	93%	89%	82%	88%
Black not Hispanic	4%	0%	5%	5%	1%	1%	3%	7%
Asian not Hispanic	3%	0%	6%	1%	1%	2%	1%	1%
Hispanic, all races	7%	0%	7%	0%	5%	7%	14%	3%
Other race	1%	1%	1%	3%	1%	0%	1%	2%

Source: Calculations by Bonnie Heudorfer, based on DHCD 's Data Collection for Government Assisted Housing in Massachusetts, 2011

Table 7.15: Summary by Region of Unit, Resident Characteristics: Tenants with Mobile Vouchers Covered by the MA Data Collection Requirements, 2011

Tenant-based (Mobile) Vouchers								
Region	MASSA- CHUSETTS	Berkshire	Boston	Cape & Islands	Central	Northeast	Pioneer Valley	Southeast
# Units (in thousands)	24.1	0.6	10.5	1.0	2.6	2.6	4.0	2.6
% Accessible Mobility	--	--	--	--	--	--	--	--
% Accessible Sensory	--	--	--	--	--	--	--	--
% 0 or 1BR units	28%	16%	14%	16%	12%	11%	10%	9%
% 2BR units	33%	17%	14%	19%	15%	14%	15%	16%
% 3 or more BR units	40%	16%	18%	15%	19%	19%	19%	18%
% Vacant	--	--	--	--	--	--	--	--
% Occupied by ELI HHs (0-30%)	87%	89%	86%	87%	86%	88%	89%	86%
% Occupied by VLI HHs (31-50%)	11%	10%	11%	11%	12%	11%	9%	12%
% Occupied by LI HHs (51-80%)	2%	1%	3%	2%	2%	2%	1%	2%
% Occupied by HHs above 80% AMI	0%	0%	0%	0%	0%	0%	0%	0%
Single person HH	37%	44%	40%	45%	36%	34%	31%	35%
2 or 3 person HH	42%	40%	41%	40%	42%	42%	43%	45%
4 person HH	12%	10%	11%	10%	13%	14%	14%	12%
5 or more person HH	9%	7%	8%	5%	9%	9%	11%	9%
% HHs w no children under 18	52%	52%	55%	58%	49%	49%	45%	49%
% HHs w 1 child under 18	20%	22%	20%	20%	19%	19%	21%	20%
% HHs w 2 children under 18	15%	15%	14%	12%	17%	18%	16%	18%
% HHs w 3 or more children under 18	13%	11%	11%	10%	15%	14%	18%	13%
One person, non-elderly HH**	39%	14%	37%	40%	48%	34%	35%	48%
Elderly HH**	21%	0%	23%	13%	15%	25%	22%	18%
Single parent, dependent child(ren)**	23%	86%	17%	31%	31%	25%	29%	26%
Two parents, dependent child(ren)**	3%	0%	3%	7%	3%	4%	2%	1%
All other HHs**	13%	0%	19%	9%	3%	12%	11%	6%
White not Hispanic	44%	81%	41%	78%	50%	44%	18%	65%
Black not Hispanic	24%	11%	36%	13%	10%	7%	20%	24%
Asian not Hispanic	2%	0%	3%	1%	1%	2%	0%	1%
Hispanic, all races	30%	8%	21%	6%	38%	48%	59%	9%
Other race	0%	0%	0%	0%	0%	0%	0%	0%

** Incomplete data; household type not captured for federal Housing Choice Vouchers. The figures shown in this table for categories are based on state vouchers only.

Source: Calculations by Bonnie Heudorfer, based on DHCD 's Data Collection for Government Assisted Housing in Massachusetts, 2011

Assisted Housing in Areas of Concentrated Poverty¹²⁰

The 2011 data collected by DHCD were also analyzed by census tract to determine the extent to which assisted housing is concentrated in high poverty, or racially concentrated high poverty, areas and the degree to which such concentration differs by tenant, program or unit characteristics.

A census tract is considered a racially or ethnically concentrated area of poverty (RCAP) if it has a non-White population of 50 percent or more and 40 percent or more of its population living at or below the poverty line or a poverty rate that is three times the average tract rate for the region, whichever is lower.¹²¹ We use the same threshold for identifying high poverty tracts that are not majority minority. These are both very high thresholds. Just 107 of the more than 1,450 populated census tracts in Massachusetts meet the high poverty threshold. Of these, 71 are racially concentrated. These RCAPs are concentrated in just ten cities; the high poverty tracts, in fourteen. For comparison, there are 160 census tracts (in 25 communities) with a median family income of less than 50 percent (very low income) that of the metro area. There are nearly 2.5 times as many households (and people) living in VLI census tracts than live in high poverty tracts.

The results of this analysis are summarized in **Table 7.16**. Twenty-seven percent of the state's privately-owned subsidized housing is located in high poverty census tracts (21.6% in racially/ethnically concentrated areas – RCAPs – and 5.4% in majority White tracts). The state-funded public housing is much less concentrated, with 5.4 percent in high poverty areas overall (3.7% in racially concentrated areas). There is considerable difference, however, between the family inventory and the elderly/disabled inventory. Almost 9 percent of the state's family public housing is in RCAPs (and 0.5% in majority

¹²⁰ As a basis for analyzing access to geographies of opportunity in her 2010 review of 2008 data, Ms. McArdle used the 2009 Kirwan Institute opportunity index, which was based on 2000 census tracts. It was anticipated that over time, as data are collected each year, that framework could be used to track the changing characteristics of neighborhoods in which subsidized housing is located (for existing project-based units) and the extent to which residents with mobile subsidies or new construction locate or are located in neighborhoods with differing opportunity profiles. That is still the goal and the Kirwan framework remains a valuable lens through which to assess the Commonwealth's progress in expanding housing opportunity. In fact, it is the model for the new methodology HUD has incorporated into its Sustainable Communities initiatives.

We have not compared 2011 data at the census tract level to the 2008 data, or evaluated it at the tract level through the lens of the Kirwan opportunity rating, for two reasons: 1.) the data used in the Kirwan analysis was from the 2000 Census and needs to be updated, and 2.) there were a substantial number of census tract changes between 2000 and 2010. There were more than 100 additional census tracts in Massachusetts at the time of the 2010 Census (and currently) than there had been in 2000 and more than 300 tracts had boundary changes (most minor, but some substantive). The 2010 census tracts, which were used in this analysis, are not expected to change between now and the 2020 decennial census, making the 2011 dataset an appropriate baseline for measuring change going forward.

As part of the Analysis of Impediments, DHCD has reviewed new data provided by HUD to participants in the Sustainable Communities Regional Planning Grant Program and is investigating other opportunity mapping models. The Chief Counsel has convened a working group to develop an opportunity mapping methodology that can be routinely updated to track performance and guide its policies. Once established, the 2011 data can be re-analyzed against the new metrics.

¹²¹ The average tract rate calculation is population weighted. In six of the regions the "three times the average tract rate" applies. In Pioneer Valley the "40 percent" rule applies.

White high poverty tracts) compared to just 1 percent of elderly/disabled housing (2.3% of which is in majority White high poverty tracts). Table 7.16 also documents where tenant vouchers, the subject of the following section, are being utilized.

Table 7.16: Housing Assistance in Areas of Concentrated Poverty

Program	Total Units/Vouchers Included in Analysis (in thousands)	Units in Racially Concentrated Areas of poverty (RCAPs)	Units in High Poverty Tracts, not Racially Concentrated	Units in Majority Minority Tracts, Not High Poverty	Units in Very Low Income Majority Minority Tracts	Units in Majority White Tracts, Not High Poverty	Units in Very Low Income Majority White (non-Hispanic) Tracts
Privately-owned Subsidized Housing*	95.2	21.6%	5.4%	18.6%	9.1%	54.4%	4.6%
Massachusetts State Public Housing*	41.2	3.7%	1.7%	13.2%	5.5%	81.5%	1.1%
<i>Massachusetts State Public Housing - elderly/disabled*</i>	27.3	1.0%	2.3%	8.1%	3.6%	88.5%	1.2%
<i>Massachusetts State Public Housing - family*</i>	13.9	8.9%	0.5%	23.1%	9.4%	67.6%	0.9%
Tenant vouchers covered by MA Reporting Reqt's*	23.9	15.0%	1.8%	28.0%	9.4%	55.2%	3.6%
All Federal Housing Choice Vouchers^	72.4	11.0%	3.1%	15.4%	3.7%	71.0%	1.8%

*Reported on 2011 Massachusetts Data Collection

^Reported on 2009 HUD Picture of Subsidized Households

Source: Calculations by Bonnie Heudorfer, based on DHCD 's Data Collection for Government Assisted Housing in Massachusetts, 2011 and HUD's 2009 Picture of Subsidized Households

Map 7.1 depicts the privately-owned subsidized units covered by the Massachusetts Data Collection Act while **Map 7.2** presents the state's public housing. Both are shown against the poverty rate of the census tract.

Tenants with Vouchers Cluster in High Poverty Areas

The housing choice voucher (HCV) program is the federal government's major program for assisting very low-income families, elders, and those with disabilities to rent decent and affordable housing in the private market. Since housing assistance is provided on behalf of a family or individual, participants are able to find their own housing, including single-family homes, townhouses and apartments. A voucher holder is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects. One of the expressed goals of the HCV program is to help poor households break out of the cycle of poverty by locating in neighborhoods with numerous opportunities for gainful employment, good schools, and racial and ethnic integration.

The data collected by DHCD under the Massachusetts Data Collection Act for 2011 and that collected by HUD for its 2009 Picture of Subsidized Households document that many voucher holders do, in fact, use their voucher to secure housing in areas that are not high-poverty. Indeed, of more than 1,450 populated census tracts in Massachusetts, only 151 did not have at least one voucher in use in 2009. **Maps 7.3-7.8** illustrate graphically the utilization of housing vouchers throughout Massachusetts.

Map 7.3 depicts the utilization of housing vouchers covered by the Massachusetts statute in 2011, while **Maps 7.4 - 7.7** show the distribution, by race of the voucher holder, of all Federal Housing Choice vouchers (and Section 8 certificates) reported in HUD’s 2009 Picture of Subsidized Households. There were 72,414 vouchers reported that year, and race and ethnicity was documented on almost 98 percent of them. The maps present the voucher utilization against the poverty rate of the census tract. **Map 7.4** shows the distribution of White voucher holders; **Map 7.5**, the Asian; **Map 7.7**, the Black; and **Map 7.8** the Hispanic voucher holders.

Despite the breadth of distribution, voucher utilization remains highly concentrated in high poverty areas, and this concentration is more pronounced among Black and Latino voucher holders than of Whites or Asians. More than 14 percent of households with tenant-based HCVs used their voucher to rent a home in a high poverty census tract. Eleven percent rented in racially concentrated high poverty tracts. As **Table 7.17** illustrates, just 6.5 percent of White voucher holders rented in high poverty areas (3.4% in RCAPs, 3.1% in high poverty white areas) compared to 26.8 percent of Hispanic voucher holders (22.7% in RCAPs, 4.1% in majority White high poverty areas). The corresponding figures for Blacks and Asians were 14.9 percent and 14.4 percent (with 12.8% and 11.6% respectively in RCAPs). The table also illustrates the substantial share of vouchers being utilized in areas that are very low income, even though they do not rise to the “3 times the average poverty rate, or 40 percent threshold” required to be considered high poverty.

Table 7.17: Housing Choice Voucher Utilization by Race by Location in High Poverty Areas

	Total	White*	Black*	Asian*	Hispanic
% of Total MA population living in racially/ethnically concentrated high poverty census tracts (RCAPs)	3.6%	1.1%	10.7%	4.6%	18.4%
% of Total MA population living in majority white high poverty tracts	2.0%	1.6%	2.3%	3.5%	3.5%
RCAPS	11.0%	3.4%	12.8%	11.6%	22.7%
High poverty majority white tracts	3.1%	3.1%	2.1%	2.8%	4.1%
Majority minority tracts not high poverty	15.4%	5.8%	38.9%	23.3%	23.3%
VLI Minority majority tracts	3.7%	1.3%	5.9%	2.3%	6.3%
Majority White tracts not high poverty	71.0%	87.7%	46.2%	62.3%	49.9%
VLI Majority White Tracts	1.8%	2.4%	1.3%	1.7%	1.5%

Source: Calculations by Bonnie Heudorfer, based on DHCD ‘s Data Collection for Government Assisted Housing in Massachusetts, 2011 and HUD 2009 Picture of Subsidized Households, population and poverty data based on 2006-2010 American Community Survey

Public and Subsidized Housing Offering Units with 3 (or More) Bedrooms

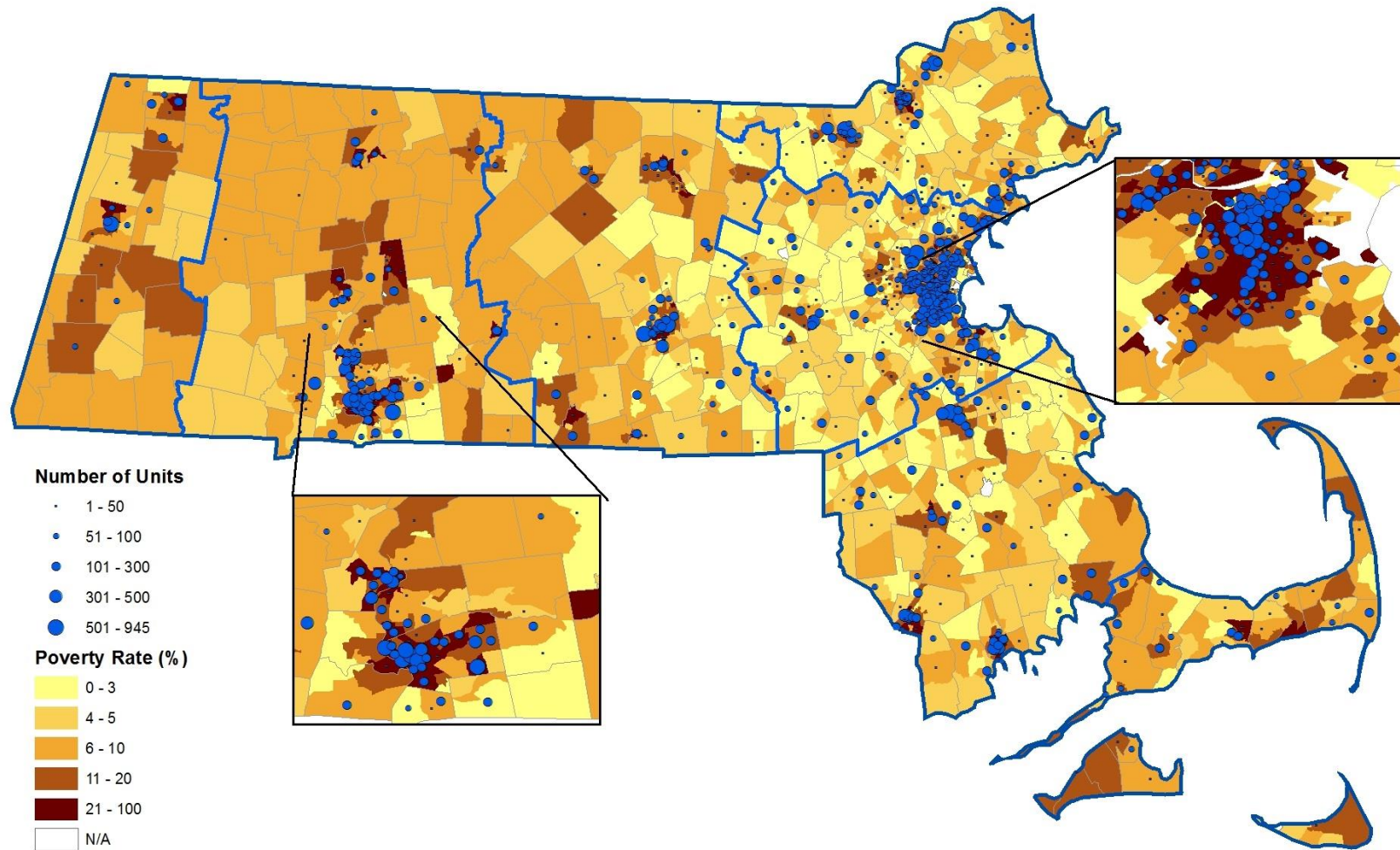
Map 7.9 documents the percentage of each municipality’s assisted housing developments – federal public housing as well as the state public housing and privately-owned subsidized units covered by the Massachusetts Data Collection Act – that include three or more bedrooms. The data depicted on Map 7.9 are summarized on **Table 7.18**.

Table 7.18: Units with 3 or More Bedrooms in Municipal Public and Subsidized Rental Housing

REGION	Number of Communities in Region	Number w Assisted Units*	Total Number of Assisted Units*	Number w 3BR Units*	Total Number of 3BR Units in Assisted Developments*
Berkshire	32	11	3,421	10	344
Boston	75	71	83,056	64	13,608
Cape & Islands	23	18	2,853	15	290
Central	62	43	15,336	34	1,706
Northeast	42	39	19,816	9	2,204
Pioneer Valley	69	31	21,329	23	3,089
Southeast	48	46	20,427	29	1,847
MASSACHUSETTS	351	259	166,238	184	23,088

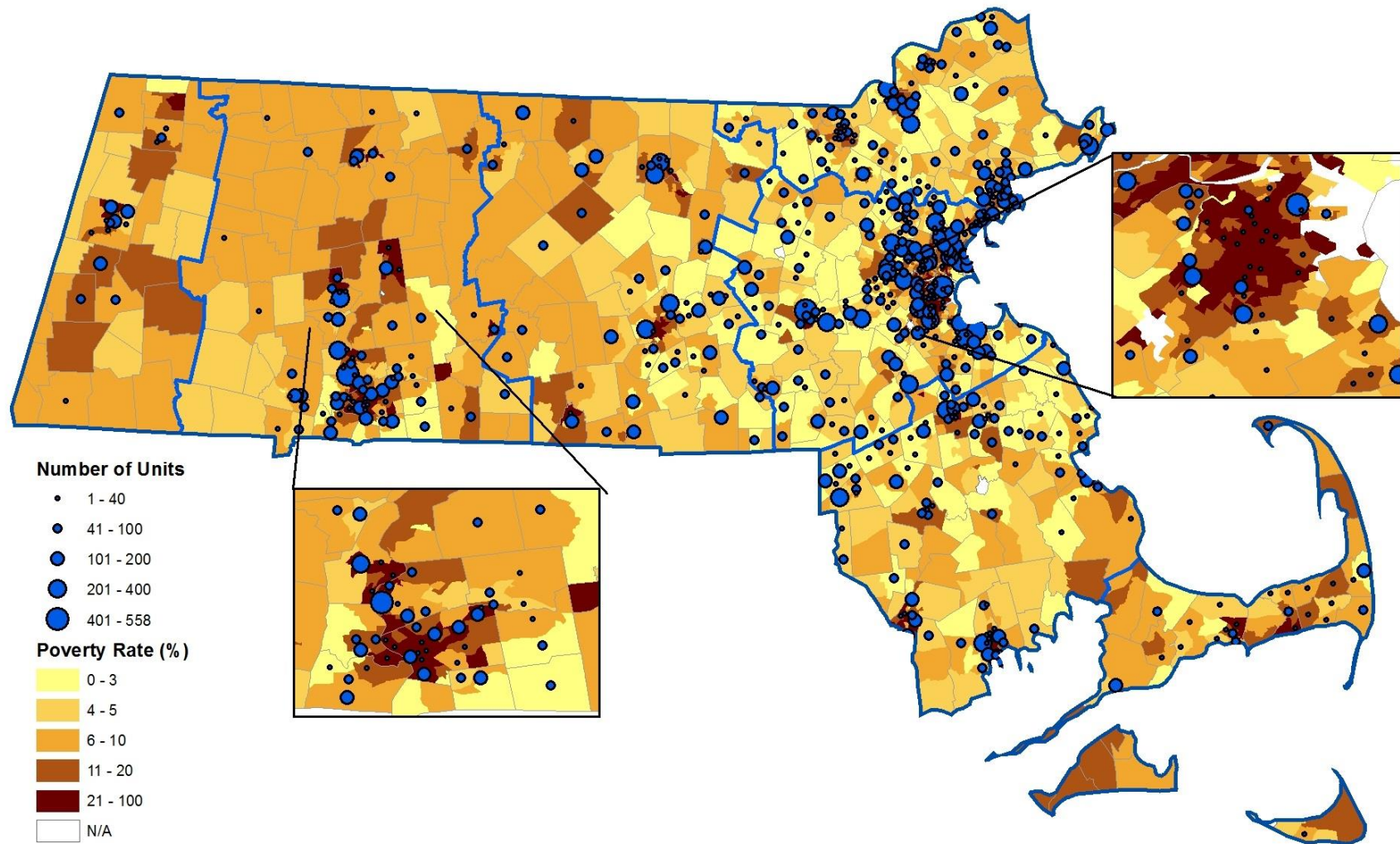
Source: Calculations by Bonnie Heudorfer, based on DHCD's Data Collection for Government Assisted Housing in Massachusetts, 2011 (number of units) and 2007-2011 American Community Survey (poverty rate), DHCD May 2012 Subsidized Housing Inventory (total subsidized units)

Map 7.1: Private Subsidized Housing (shown against poverty level of census tract)



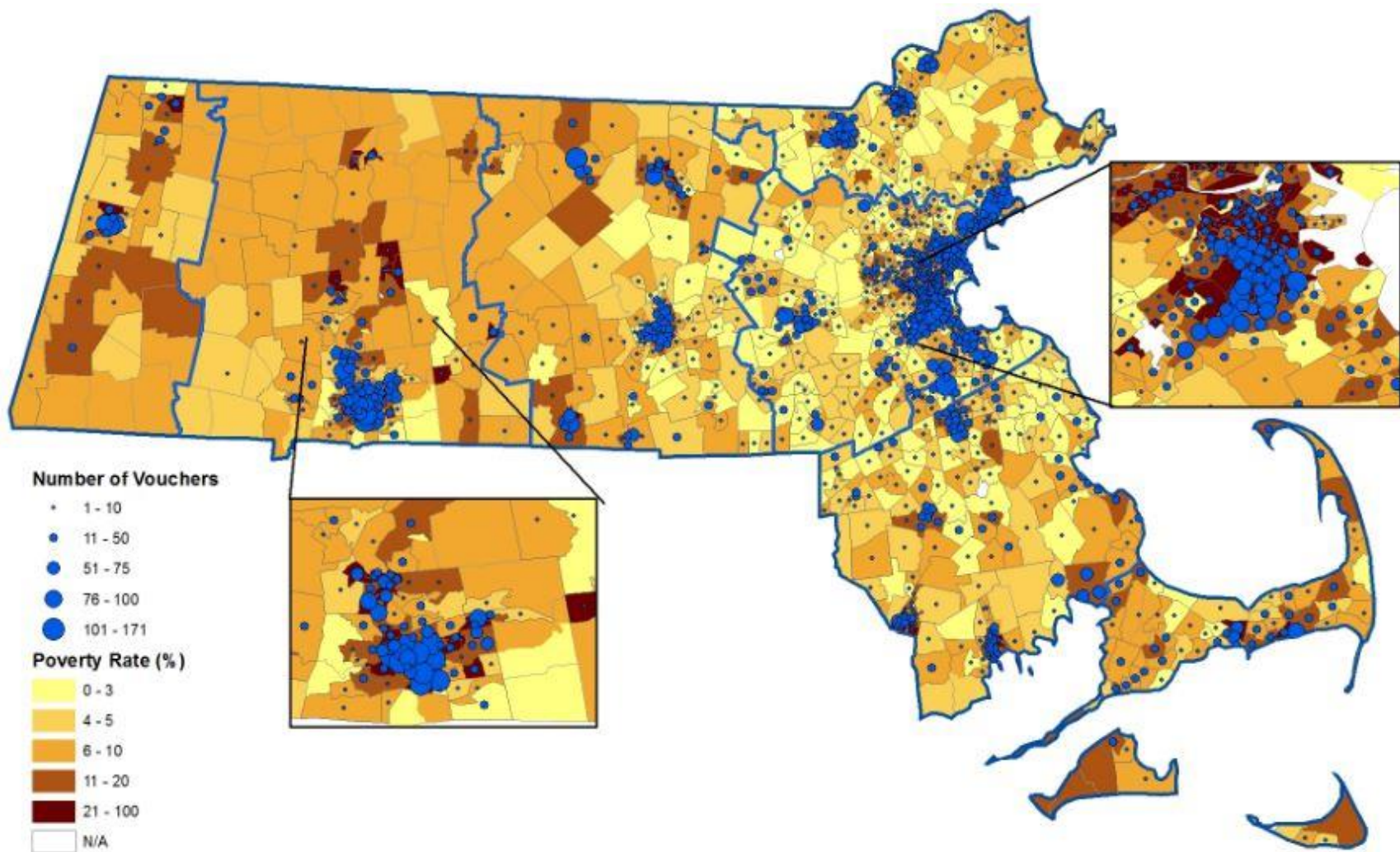
Source: Calculations by Bonnie Heudorfer, based on DHCD's Data Collection for Government Assisted Housing in Massachusetts, 2011 (number of units) and 2007-2011 American Community Survey (poverty rate)

Map 7.2: State Public Housing (shown against poverty level of census tract)



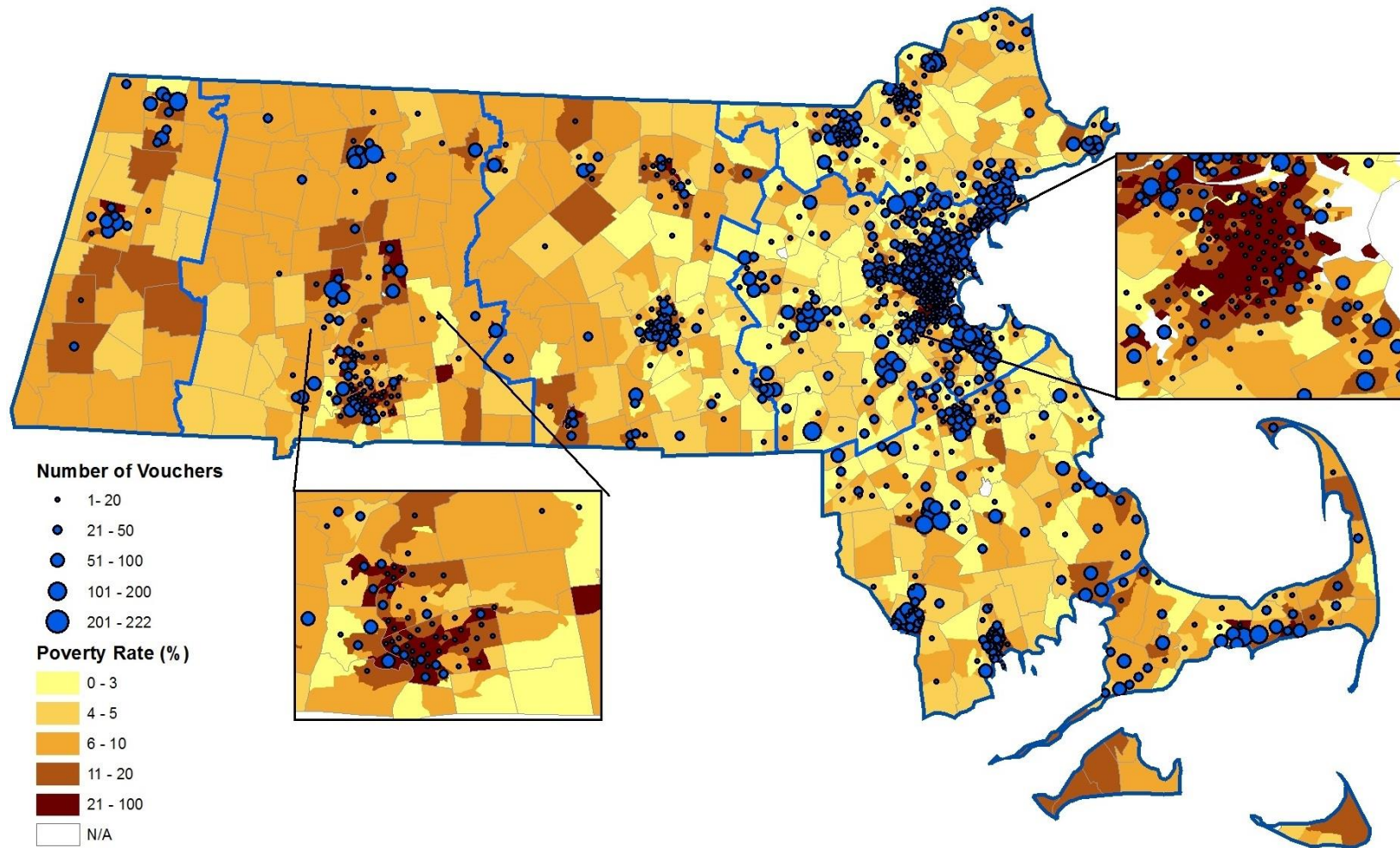
Source: Calculations by Bonnie Heudorfer, based on DHCD's Data Collection for Government Assisted Housing in Massachusetts, 2011 (number of units) and 2007-2011 American Community Survey (poverty rate)

Map 7.3: Tenant-based Rent Vouchers in Use in 2011 (shown against poverty level of census tract)
Includes only those vouchers covered by the MA Data Collection Act



Source: Calculations by Bonnie Heudorfer, based on DHCD's Data Collection for Government Assisted Housing in Massachusetts, 2011 (number of units) and 2007-2011 American Community Survey (poverty rate)

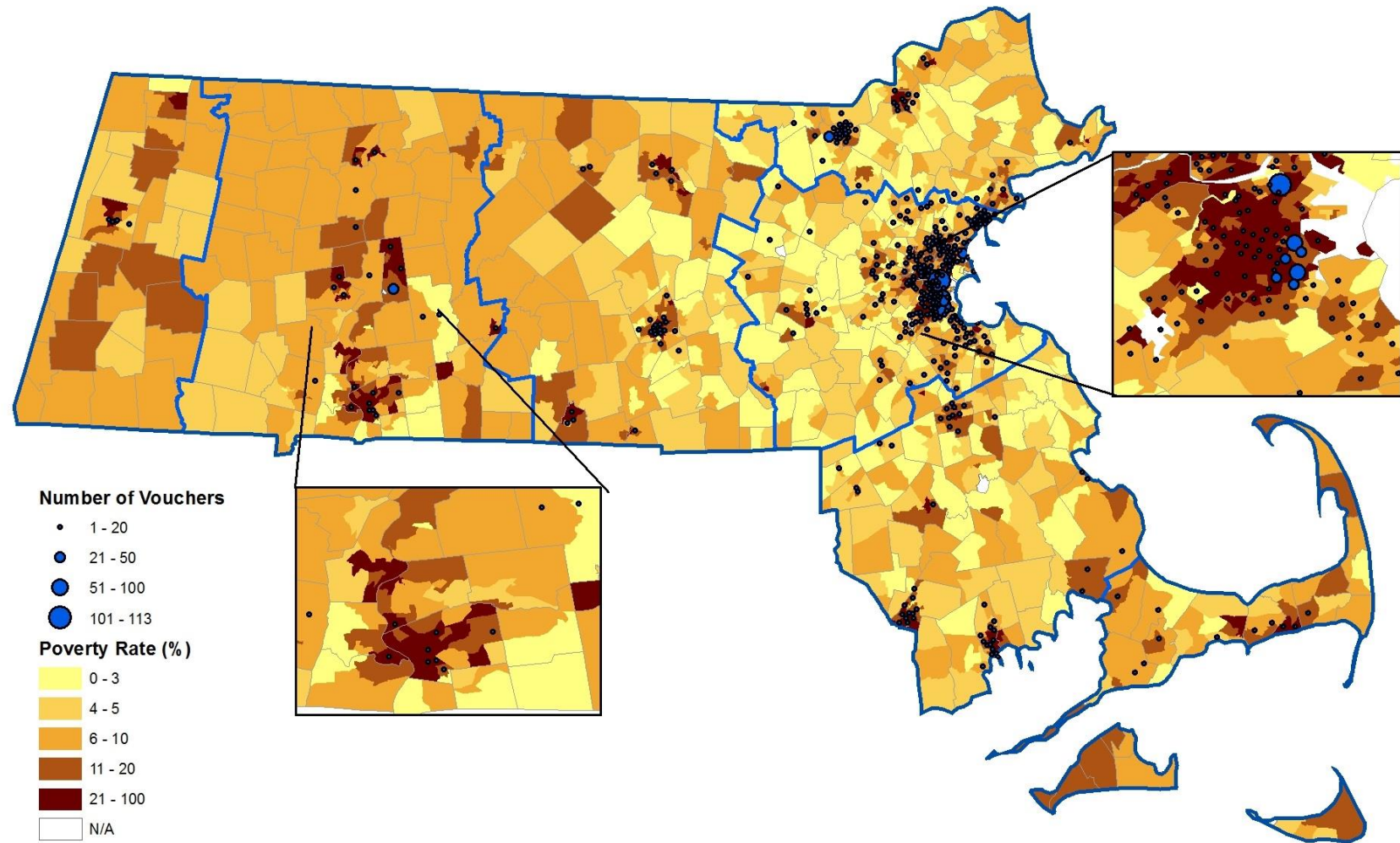
Map 7.4: Federal Housing Choice Voucher Used by White* Households (shown against poverty level of census tract - includes those administered by LHAs)



* Not Hispanic

Source: Calculations by Bonnie Heudorfer, based on HUD's Picture of Subsidized Households, 2009 (number of units) and 2007-2011 American Community Survey (poverty rate)

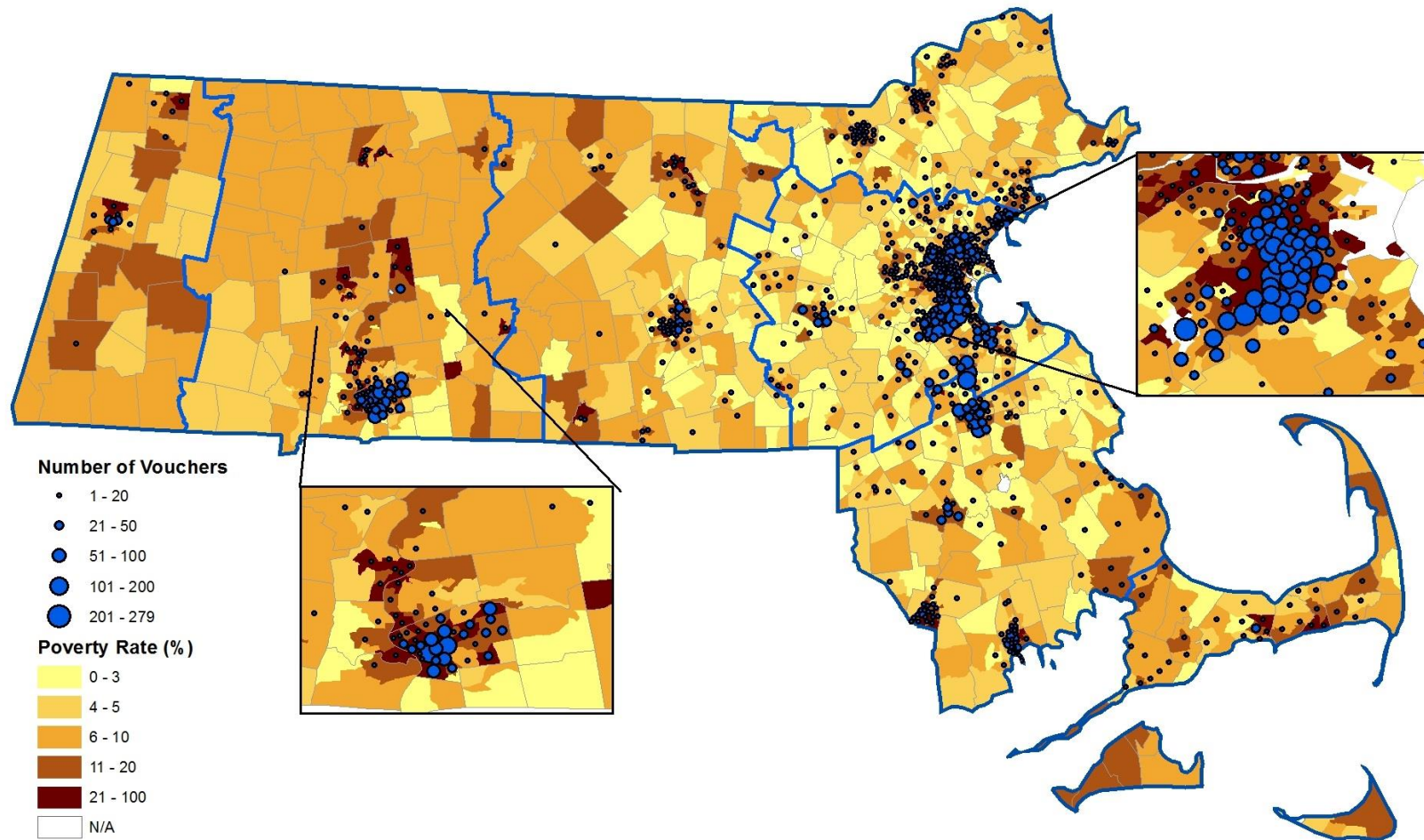
Map 7.5: Federal Housing Choice Vouchers Used by Asian* Households (shown against poverty level of census tract - includes those administered by LHAs)



* Not Hispanic

Source: Calculations by Bonnie Heudorfer, based on HUD's Picture of Subsidized Households, 2009 (number of units) and 2007-2011 American Community Survey (poverty rate)

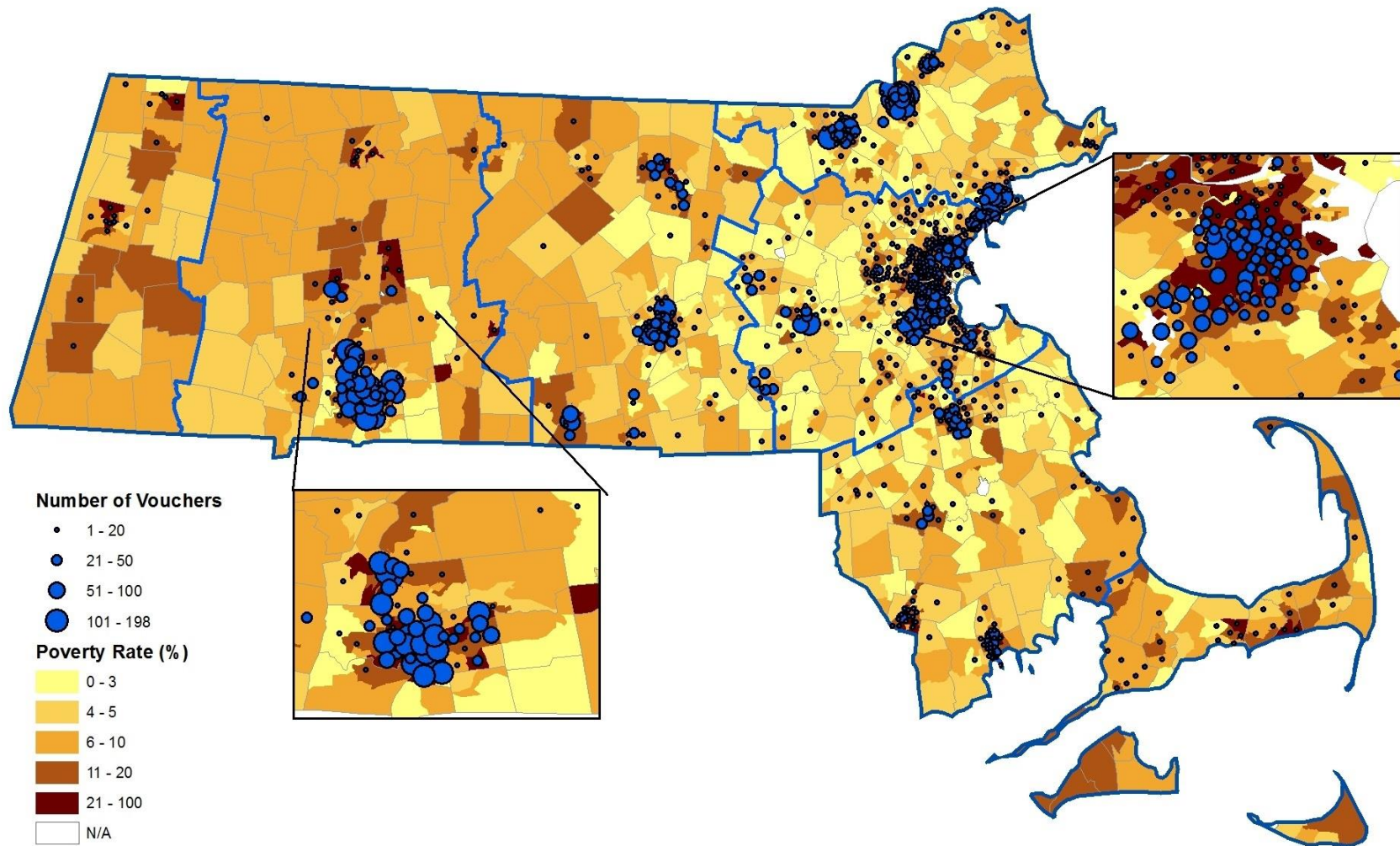
Map 7.6: Federal Housing Choice Vouchers Used by Black* Households (shown against poverty level of census tract - includes those administered by LHAs)



* Not Hispanic

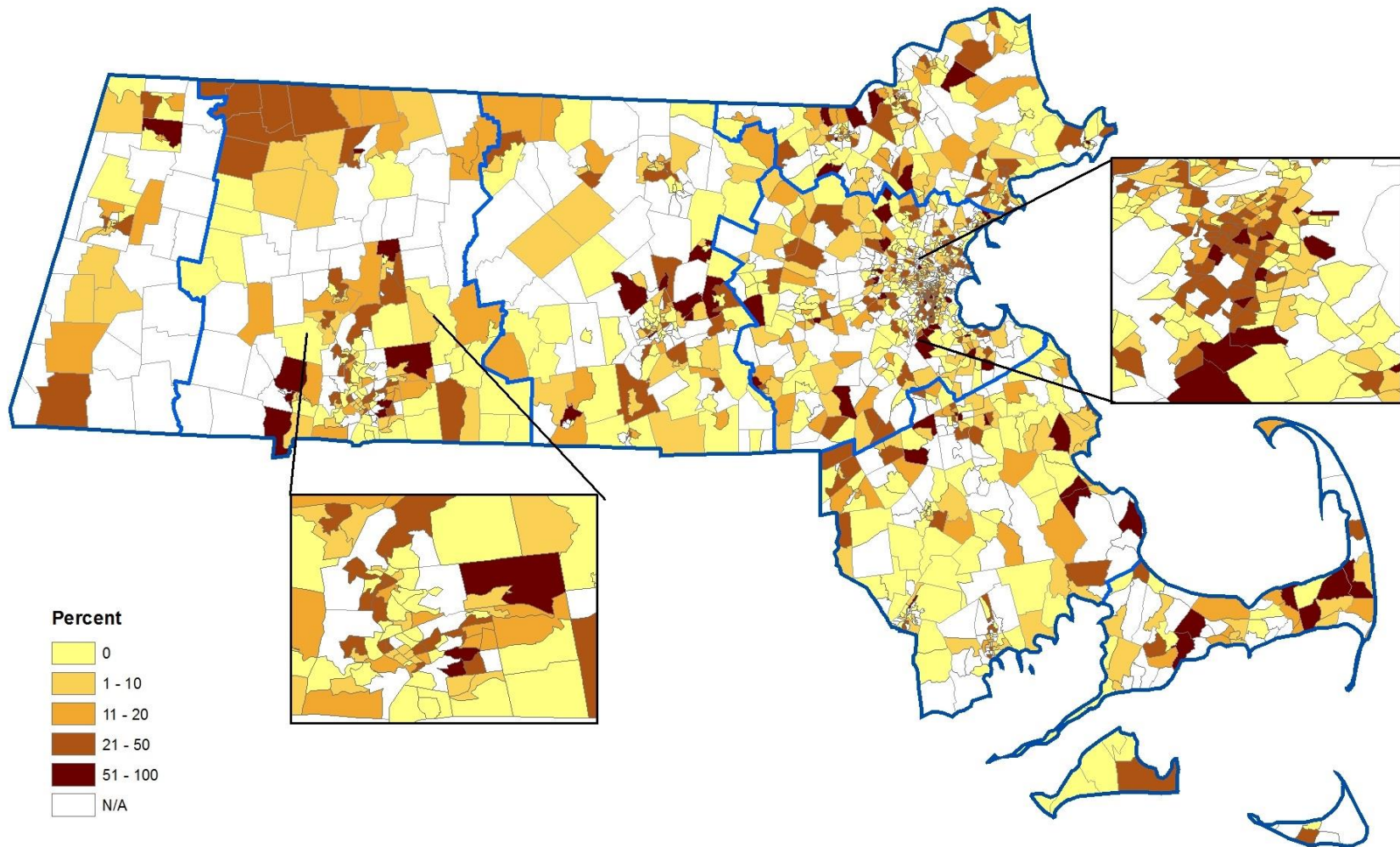
Source: Calculations by Bonnie Heudorfer, based on HUD's Picture of Subsidized Households, 2009 (number of units) and 2007-2011 American Community Survey (poverty rate)

Map 7.7: Federal Housing Choice Vouchers Used by Hispanic Households (shown against poverty level of census tract - includes those administered by LHAs)



Source: Calculations by Bonnie Heudorfer, based on HUD's Picture of Subsidized Households, 2009 (number of units) and 2007-2011 American Community Survey (poverty rate)

Map 7.8: 3 (or more) Bedroom Units as a Percent of Municipality's Public and Subsidized Rental Housing



Source: Calculations by Bonnie Heudorfer, based on DHCD's Data Collection for Government Assisted Housing in Massachusetts, 2011 (number of units) and 2007-2011 American Community Survey (poverty rate), DHCD May 2012 Subsidized Housing Inventory (total subsidized units)

Publicly Assisted Housing: The Safety Net for Low Income Renters

The Massachusetts Record

Public and subsidized rental housing provides the safety net for many of the region's most vulnerable low income residents. Massachusetts has long been a national leader in providing the resources to create and maintain that safety net, but it is becoming ever more challenging. The number of families and individuals eligible for assistance is growing while the resources available to serve them are diminishing. Preserving and upgrading the state's existing public and subsidized housing is consuming an increasing share of the available resources.

According to the May 2012 SHI, 40 communities are now over 10 percent. Fifteen others had been over 10 percent prior to the release of the 2010 Census, but fell below because new development between 2000 and 2010 boosted their year round housing stock. If only units restricted to occupancy by low income households counted, just 20 communities would be over 10 percent, half of them ones that were at 10 percent by the end of the 1970s.

How the Safety Net Was Created¹²²

Massachusetts had already established itself as a leader in low and moderate income housing production by the time the first Subsidized Housing Inventory (SHI) was released in 1972. It had a large inventory of state and federally funded public housing, an ambitious pipeline of projects under the new Great Society programs that provided incentives to the private sector to build and operate affordable housing, and a newly created state housing finance agency to support the development of low, moderate and mixed income housing. Nearly 5 percent of the state's year round housing stock (approximately 86,000 units) was subsidized according to that first Inventory. All were rental units and nearly all were restricted to low income occupancy. Another 53,000 units were either under construction or in the planning phase. Eighty-four percent of all subsidized housing was located in the state's 39 cities, most in Boston and the other most populous cities.

Boston, Holyoke and Fall River were the only three cities that exceeded the 10 percent threshold in 1972, although ten others had sufficient subsidized developments in planning or under construction to reach 10 percent threshold by the end of the decade. More than 200 communities had no subsidized housing at all in 1972. Another one-third had just started to build low and moderate-income rental units, using the State's public housing programs. Most of these had a single elders housing development; a handful had small family developments, built for returning World War II and Korean War veterans.

Roughly half of the units added since 1972 resulted from new construction (including units gained through the adaptive reuse of non-residential properties). The remainder represents existing units that were acquired, rehabilitated, preserved, and/or improved for continued low and moderate income occupancy. Today the publicly assisted stock includes, approximately:

- 37,000 units of federally funded public housing (most built between 1945-1965)

¹²² *The Record on 40B*, Heudorfer; Citizens' Housing and Planning Association (2003).

- 41,000 units of state funded public housing (most built between 1950-1975)
- 95,000 units of privately owned publicly subsidized housing (most created between 1965-1990 under HUD, MassHousing and Rural Housing Services programs)
- 20,000 units subsidized housing added through a combination of low income housing tax credits and/or state and federal subsidies

Even though most of the Commonwealth's communities are now credited with having some form of subsidized housing, the housing "safety net" remains heavily concentrated in the same ten cities that have provided the greatest share of public and subsidized units for the past 40 years. In 1972, Boston, Fall River, Cambridge, Worcester, Springfield, New Bedford, Quincy, Lowell, Lawrence, Holyoke, Brockton, and Lynn provided two-thirds of the state's subsidized housing; in 2012, they accounted for almost 50 percent. By comparison, these communities represent just 27 percent of the year round housing.

Many of the same forces that are eroding the aging private rental stock threaten the assisted inventory as well: the housing is old and less efficient than new production, and much of it has suffered from deferred maintenance. The use restrictions, subsidy contracts and/or financial assistance that required and enabled landlords to rent to low income households have expired, or soon will. Relatively few units have actually been lost to the subsidized inventory to date. Many have come to the end of their restrictions, but they continue to subsidize existing low income residents as long as they remain in their home. Many others have been refinanced, upgraded and preserved with public subsidies or tax credits due to expiring use restrictions, but the competition for public resources is intense and the need far exceeds the available resources.

Growing the Subsidized Housing Inventory

Excluding the City of Boston, which gained about 5,500 affordable units, and group homes and units added as the result of homeowner repair or accessory dwelling unit programs, nearly 21,000 affordable (income restricted) units were added to the Inventory between 2001 and 2012. Three mechanisms were used to create these additional units: the comprehensive permit provisions of Chapter 40B; traditional subsidized production carried out by a network of for-profit and nonprofit developers who specialize in affordable housing development; and inclusionary mandates under which a setaside of affordable units, or a payment in lieu of such units, is required of developers building market rate housing. The state's relatively new smart growth zoning statute, Chapter 40R, also saw some use. The principal production engine was 40B, as **Table 7.19** illustrates.

Nearly 46 percent of the new affordable (income restricted) rental housing – excluding Boston – was permitted under the comprehensive permit provisions of Chapter 40B, often in combination with traditional subsidies (e.g., HOME funding or the Affordable Housing Trust Fund) and or Low Income Housing Tax Credits. Seventy-eight percent of the affordable ownership units were permitted under 40B, and relatively few of these involved additional subsidies. The category "New construction, not 40B/40R, no subsidy" generally refers to units gained as the result of inclusionary zoning mandates. Thirteen percent of the rental gains were the result of adaptive reuse, typically of mill buildings, schools, and the like, while 15 percent represents the acquisition, or acquisition and rehab, of existing properties.

Table 7.19: Tools Used to Create Affordable Low Income Housing Units, 2001 to 2012

Program/Tools	Total Affordable Units	Affordable Rental Units	Affordable Owner Units
Total excluding Boston	20.7	15.8	4.9
Existing subsidized development	4.4%	5.8%	0.2%
40B with subsidy	23.6%	29.0%	6.0%
40B, no or shallow subsidy	29.8%	16.6%	72.0%
40R with subsidy	2.4%	3.0%	0.3%
40R, no or shallow subsidy	0.6%	0.7%	0.1%
New construction, not 40B/40R, with subsidy	11.4%	13.4%	5.2%
New construction, not 40B/40R, no subsidy	3.9%	2.1%	10.0%
Adaptive reuse with subsidy	9.3%	12.1%	0.4%
Adaptive reuse, no or shallow subsidy	0.5%	0.5%	0.6%
Existing residential property	12.5%	15.1%	4.3%
Other	1.5%	1.8%	0.8%

Includes only units that are income restricted to low income households ($\leq 80\%$ AMI). Excludes more than 5,500 affordable units added in the City of Boston, group homes, units added as the result of homeowner repair or accessory dwelling unit programs and units gained through additions or reconfiguration of existing subsidized developments, edits, corrections, etc.

Source: Citizens' Housing and Planning Association and author's analysis of Subsidized Housing Inventory

Since 2005, about 2,500 rental housing units have been created or preserved annually with the assistance of federal and state subsidies and/or tax credits.¹²³ About 80 percent (2,250) are income restricted to households earning less than 80 percent of the area median income. Most target families and individuals with much lower incomes. As noted, though, it is becoming increasingly difficult to grow the assisted inventory with the available subsidies. Nearly half of the units awarded tax credits and/or subsidies from DHCD or the federal government since 2005 were existing units that were being preserved, improved or acquired, not new production.

8. Fair Housing Enforcement and Infrastructure in Massachusetts

There are a number of organizations in Massachusetts that, together, represent the Commonwealth's fair housing enforcement infrastructure. Foremost among these are the Massachusetts Commission Against Discrimination (MCAD) and HUD's Office of Fair Housing and Equal Opportunity (FHEO). These are the agencies to which residents who believe they have experienced discrimination in violation of federal or state laws may register their complaints. Residents of Boston and Cambridge have the additional

¹²³ This number does not include units subsidized with HOME funds awarded directly to municipalities and used for housing production or units assisted with local resources such as Community Preservation funds if they do not also use state funds or federal funds that flow through DHCD.

option of bringing their complaints to the Boston Fair Housing Commission or the Cambridge Human Rights Commission.¹²⁴

Other entities with fair housing interests, obligations and responsibilities include jurisdictions that receive funding from the federal government for housing and community development programs, including the Commonwealth through its Department of Housing and Community Development (DHCD). Civil rights groups, the legal community and others play a vital role as well. This section looks at who is doing what to affirmatively further fair housing and expand access to opportunity, especially for protected classes. It includes an analysis of discrimination complaints filed over the past five years and their outcomes, well as other indicators of discrimination in the housing market, such as fair housing audits.

The Obligation to Affirmatively Further Fair Housing

The federal Fair Housing Act requires the U.S. Department of Housing and Urban Development (HUD) to administer its funding programs “in a manner affirmatively to further the policies of [the Fair Housing Act].”¹²⁵ While the extent of this “affirmatively further fair housing” (AFFH) obligation has never been defined statutorily, in practice HUD has defined it as requiring a recipient of its funding to: conduct an analysis to identify impediments to fair housing choice within the jurisdiction; take appropriate actions to overcome the effects of any impediments identified through the analysis; and maintain records reflecting the analysis and actions taken in this regard.

The obligation applies to all HUD programs, but since 1983 jurisdictions participating in the Community Development Block Grant Program have had to certify that they will affirmatively further fair housing. Fair housing planning was explicitly added to the Consolidated Planning process in 1995 with the requirement that grantees complete an Analysis of Impediments to Fair Housing (AI), take action to eliminate any identified impediments and maintain AFFH records.

Thirty-seven Massachusetts cities and towns receive Community Development Block Grant funds directly from HUD and are therefore required to conduct Analyses of Impediments to Fair Housing (AIs) for their own jurisdictions. So, too, are the 70 additional communities that receive HOME Investment Partnership program (HOME) funds from HUD, either directly or as part of a consortium. There are another two dozen communities that access federal funds under these programs through DHCD. More recently, participants in the Sustainable Communities Regional Planning Grant Program have been required to prepare regional analyses of impediments (AIs) or Fair Housing Equity Assessments (FHEAs), including the four Massachusetts Regional Planning Agencies received such grants. A list of the municipalities with existing AFFH obligations as the result of their receipt of federal funding through covered programs such as the Community Development Block Grant or HOME Investment Partnerships Programs is found in **Appendix 8, Table 1**.

This would suggest that fair housing issues have been raised, and steps taken to address identified impediments, by most cities and towns in the Commonwealth. In fact, there has been very little oversight

¹²⁴ The jurisdiction of these offices depends on the authority delegated by the underlying laws, the classes of people protected by each law, and the size or type of the housing involved in the complaint.

¹²⁵ Title VIII of the Civil Rights Act of 1968.

or coordination of these efforts. As part of its current AI update, DHCD has attempted to document who is doing what with regard to affirmatively furthering fair housing, and with what level of success their efforts have been met.

Discrimination Complaints

Prevalence and Nature of Discrimination

The number and types of reported incidents of discrimination speak not only to the level of intolerance in a community but also to the level awareness of what constitutes a violation of law, and the level of comfort those victimized have to seek redress for those violations. Between January 2007 and April 2012, a total of 1,719 complaints were filed with HUD, MCAD, the Cambridge Human Rights Commission, or the Boston Fair Housing Commission, involving allegations of 2,325 acts of discrimination in Massachusetts (and citing 2,286 bases for the alleged discriminatory acts). The characteristics of these complaints are presented in **Table 8.1** (basis of discrimination alleged) and **Table 8.2** (alleged acts of discrimination). Complaints were filed in 195 cities and towns, in every region of the state (**Figure 8.1**). The Greater Boston region represented 60 percent of the caseload. The City of Boston alone accounted 26 percent of all complaints. Cambridge, Worcester and Springfield followed, with 4.5 percent, 4.2 percent and 2.8 percent respectively.

The most commonly reported violations reported include refusal to rent or sublet (20.2%); “other terms, conditions or privileges”; denial of reasonable accommodation (19.8%); and eviction, or threatened eviction (11.3%). The numbers in most categories at the regional level are small, but noteworthy is the higher share of cases alleging “denied reasonable accommodation” in the Cape and Islands. This is consistent with the relatively high number of disability- and age-based discrimination cases brought by residents of that region.

The basis on which most cases were brought is discrimination based on disability (29.3%), followed by claims of race discrimination (19.4%), discrimination against children (11.0%), public assistance (8.1%), and national origin (7.5%). This pattern was consistent across regions. The combination of complaints alleging discrimination based on children plus those based on family status (3.6%) and lead paint (5.0%), both of which may indicate an unwillingness to rent to families with young children, totaled 19.6 percent of all alleged violations.

Table 8.1: Bases of Complaints Filed with MCAD, * 1/1/2007 - 4/30/2012

Subregion	Total complaints*	Bases	Age	Children	Creed	Disability	Familial	Lead Paint	Marital Status	Military Status	National Origin	Other	Public Assistance	Race, Color	Sex	Sexual Orientation	Veteran	Total Bases
MASSACHUSETTS	1,685	# times cited	37	247	39	658	80	113	55	3	168	86	182	435	80	53	8	2,244
TOTAL	100.0%	% of total	1.6%	11.0%	1.7%	29.3%	3.6%	5.0%	2.5%	0.1%	7.5%	3.8%	8.1%	19.4%	3.6%	2.4%	0.4%	100.0%
BERKSHIRE	15	# times cited	0	2	0	9	0	2	0	0	0	0	1	4	2	0	0	20
	0.9%	% of total	0.0%	10.0%	0.0%	45.0%	0.0%	10.0%	0.0%	0.0%	0.0%	0.0%	5.0%	20.0%	10.0%	0.0%	0.0%	100.0%
BOSTON	1,031	# times cited	22	163	20	351	44	92	38	2	117	49	135	268	54	33	5	1,393
	61.2%	% of total	1.6%	11.7%	1.4%	25.2%	3.2%	6.6%	2.7%	0.1%	8.4%	3.5%	9.7%	19.2%	3.9%	2.4%	0.4%	100.0%
CAPE & ISLANDS	30	# times cited	3	2	1	16	2	0	1	0	0	1	3	6	3	1	0	39
	1.8%	% of total	7.7%	5.1%	2.6%	41.0%	5.1%	0.0%	2.6%	0.0%	0.0%	2.6%	7.7%	15.4%	7.7%	2.6%	0.0%	100.0%
CENTRAL	131	# times cited	4	18	6	55	13	4	4	0	11	8	6	34	6	3	1	173
	7.8%	% of total	2.3%	10.4%	3.5%	31.8%	7.5%	2.3%	2.3%	0.0%	6.4%	4.6%	3.5%	19.7%	3.5%	1.7%	0.6%	100.0%
NORTH EAST	127	# times cited	2	18	4	66	4	3	6	1	11	5	6	28	4	6	1	165
	7.5%	% of total	1.2%	10.9%	2.4%	40.0%	2.4%	1.8%	3.6%	0.6%	6.7%	3.0%	3.6%	17.0%	2.4%	3.6%	0.6%	100.0%
PIONEER VALLEY	191	# times cited	2	28	4	95	12	9	4	0	10	13	21	40	7	4	0	249
	11.3%	% of total	0.8%	11.2%	1.6%	38.2%	4.8%	3.6%	1.6%	0.0%	4.0%	5.2%	8.4%	16.1%	2.8%	1.6%	0.0%	100.0%
SOUTHEAST	160	# times cited	4	16	4	66	5	3	2	0	19	10	10	55	4	6	1	205
	9.5%	% of total	2.0%	7.8%	2.0%	32.2%	2.4%	1.5%	1.0%	0.0%	9.3%	4.9%	4.9%	26.8%	2.0%	2.9%	0.5%	100.0%

* MCAD database includes cases handled by other agencies (BFHC and HUD)Excludes 34 cases from out of state or with missing or invalid geographic identifiers
The number of times cited and % of total tally to the total bases. The total number of complaints is provided for informational purposes only. Complaints often allege more than one basis of discrimination.
Note: Individual complaints may include more than one violation of federal, state, and/or local statutes.

Source: MCAD. MCAD's database includes cases handled by the other agencies (BFHC and HUD)

Table 8.2: Acts of Discrimination Alleged in Cases Filed with MCAD,* 1/1/2007 - 4/30/2012

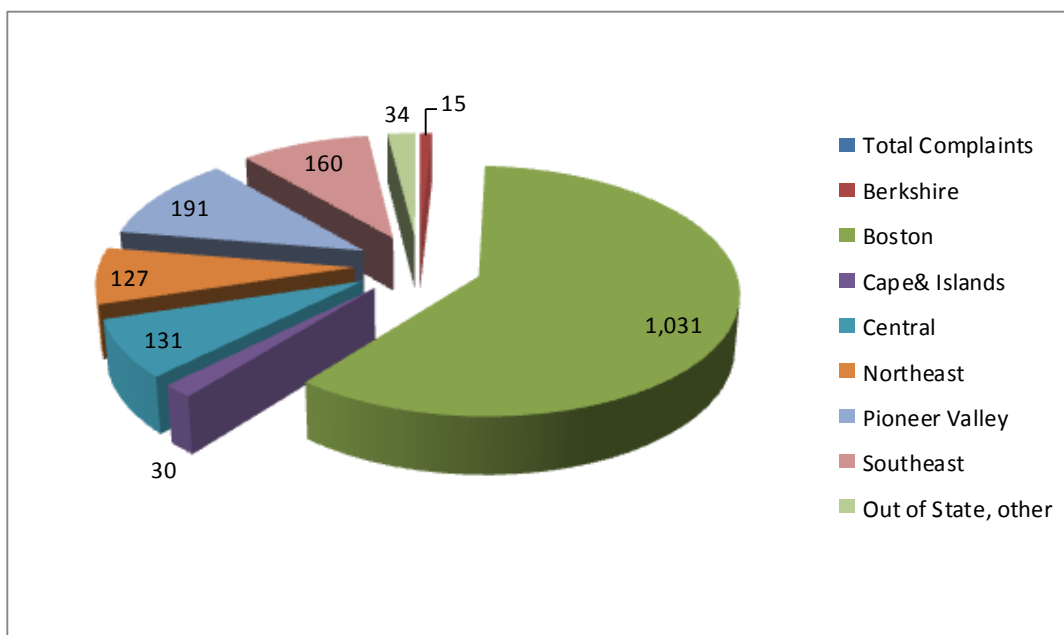
Subregion	Total complaints	Acts	Denied Reasonable Accommodation	Eviction or Threatened Eviction	Mortgage/Lending	Other	Other terms, conditions, or privileges	Refusal to rent or sublet	Refusal to sell or discriminatory terms of sale	Sexual Harassment	Terms & Conditions	Terms and Conditions	Unlawful inquiry (oral or written)	Unlawful specification (oral or written)	Total Acts Alleged
MASSACHUSETTS	1,685	# times cited	452	258	55	80	480	461	39	27	202	44	65	118	2,281
TOTAL	100.0%	% of total	19.8%	11.3%	2.4%	3.5%	21.0%	20.2%	1.7%	1.2%	8.9%	1.9%	2.8%	5.2%	100.0%
BERKSHIRE	15	# times cited	5	3	0	0	7	4	0	1	2	0	0	1	23
	0.9%	% of total	21.7%	13.0%	0.0%	0.0%	30.4%	17.4%	0.0%	4.3%	8.7%	0.0%	0.0%	4.3%	100.0%
BOSTON	1,031	# times cited	239	169	39	58	279	299	20	14	123	26	37	71	1,374
	61.2%	% of total	17.4%	12.3%	2.8%	4.2%	20.3%	21.8%	1.5%	1.0%	9.0%	1.9%	2.7%	5.2%	100.0%
CAPE & ISLANDS	30	# times cited	14	5	0	1	7	6	1	1	3	0	0	0	38
	1.8%	% of total	36.8%	13.2%	0.0%	2.6%	18.4%	15.8%	2.6%	2.6%	7.9%	0.0%	0.0%	0.0%	100.0%
CENTRAL	131	# times cited	41	23	3	3	41	39	3	1	16	2	4	9	185
	7.8%	% of total	22.2%	12.4%	1.6%	1.6%	22.2%	21.1%	1.6%	0.5%	8.6%	1.1%	2.2%	4.9%	100.0%
NORTHEAST	127	# times cited	45	13	4	7	34	27	1	3	22	3	3	7	169
	7.5%	% of total	26.6%	7.7%	2.4%	4.1%	20.1%	16.0%	0.6%	1.8%	13.0%	1.8%	1.8%	4.1%	100.0%
PIONEER VALLEY	191	# times cited	61	23	3	3	71	55	2	4	16	7	19	25	289
	11.3%	% of total	21.1%	8.0%	1.0%	1.0%	24.6%	19.0%	0.7%	1.4%	5.5%	2.4%	6.6%	8.7%	100.0%
SOUTHEAST	160	# times cited	47	22	6	8	41	31	12	3	20	6	2	5	203
	9.5%	% of total	23.2%	10.8%	3.0%	3.9%	20.2%	15.3%	5.9%	1.5%	9.9%	3.0%	1.0%	2.5%	100.0%

* MCAD database includes cases handled by other agencies (BFHC and HUD)Excludes 34 cases from out of state or with missing or invalid geographic identifiers

Note: Individual complaints may include more than one violation of federal, state, and/or local statutes.

Source: MCAD. MCAD's database includes cases handled by the other agencies (BFHC and HUD)

Figure 8.1: Distribution of Discrimination Complaints Filed at MCAD,* 1/1/2007 – 4/30/2012, by Region



Source: MCAD. MCAD's database includes cases handled by the other agencies (BFHC and HUD)

Complaint Outcomes

Table 8.3 documents the resolution of all alleged violations (Title VIII and Chapter 151B) brought by Massachusetts residents since January 2007 according to the basis on which the complaint was brought. Several categories have been combined in this table to facilitate analysis of outcomes: race, color creed, and national origin; family status, children and lead paint; and sex and sexual orientation, and bases with a small number of cases have been omitted. Additionally, the AGO Civil Rights Division reports 269 complaints between 2007 and 2012 (not exclusive of complaints in Table 8.3).

Nearly two-thirds (64.5 percent) of the closed violations were closed for reasons that failed to substantiate the allegation of discrimination of discrimination. These include complaints where the case was dismissed or withdrawn without a settlement; where the investigation was not authorized or where MCAD lacked jurisdiction; where the agency found a lack of probable cause or no violation; or where the complainant could not be found or failed to cooperate represented. Over 53 percent of the 1,515 closed cases (807) were closed due to a finding of no cause.

The table shows that discrimination complaints brought on the basis of family status, children and/or lead paint (combined) had the highest success rate for the complainant (59.9 percent of closed cases). Public assistance and disability complainants had success rates of 48.3 and 33.0 percent, respectively. The outcomes for complaints brought on the basis of race – successful in 22.7 percent of closed cases – and

sexual orientation (22.9 percent) are conspicuously at odds with the results reported over the past decade by civil rights groups and others who have conducted fair housing audits employing matched pair testers. Such audits are a well-established means of testing fair housing conditions and represent a benchmark against which it is possible to measure the effectiveness of enforcement activities.

Several such audits conducted in the Boston metropolitan area and in the Holyoke-Springfield area have found that people protected by fair housing laws are likely to experience discrimination in at least half of their interactions with the rental and for-sale markets, results are not reflected in the MCAD outcomes. These disparities suggest the need for a concerted enforcement campaign focusing on source of income discrimination.

Table 8.3: Resolution of Discrimination Complaints by Basis of Complaint

Complaint Resolution by Basis	Total Cases*	Race, Color, Creed, National Origin	Disability	Family status, children, lead paint	Public assistance	Sex, sexual orientation
Outcome successful for complainant						
Conciliated	83	9	23	65	17	2
Withdrawn with settlement	232	61	103	69	22	13
Removed to court	25	5	7	6	8	4
Judicial review	87	19	25	49	10	0
Violation enforcement	4	3	2	2	1	0
Closed - pre-determination settlement	107	26	41	48	13	6
# of successful complaint outcomes	538	123	201	239	71	25
Successful outcomes as % of closed complaints	35.5%	22.7%	33.0%	59.9%	48.3%	22.9%
Outcome unsuccessful for complainant						
Complainant failed to cooperate or could not be located	30	13	8	8	1	3
No cause	807	365	334	121	62	70
Not authorized	5	1	2	1	0	1
Dismissed	17	6	6	7	3	0
No jurisdiction	43	8	28	5	4	5
Withdrawn without a settlement	75	25	30	18	6	5
# of unsuccessful complaint outcomes	977	418	408	160	76	84
Unsuccessful outcomes as % of closed complaints	64.5%	77.3%	67.0%	40.1%	51.7%	77.1%
Total closed violations	1,515	541	609	399	147	109
Open violations	170	65	49	42	35	24
Total	1,685	606	658	441	182	133

Source: MCAD. MCAD's database includes cases handled by the other agencies (BFHC and HUD)

Hate Crimes

Hate crime statistics are another indicator of the extent of discrimination in the region. Massachusetts passed the Hate Crimes Reporting Act in 1991, requiring the Secretary of Public Safety to gather hate crime reports annually from all state, local and campus police departments and other law-enforcement agencies. A hate crime is any criminal act coupled with behavior that shows the crime was motivated by bigotry or bias. Specifically, a crime is classified as a hate crime when the criminal act is motivated by racial, religious, ethnic, handicap, gender, or sexual orientation prejudice.

For 2008, the most recent year for which data are available, 304 municipal police departments and 64 other agencies filed reports; the 47 towns not reporting are all small rural communities. A total of 332 crimes of bias were reported that year. The Inner Core of the Greater Boston region accounted for two-thirds of the reported incidents, with the City of Boston representing 56 percent. Reporting of hate crimes appears to be limited and highly clustered. Only 80 cities/towns reported any such crimes and 53 of the ones that did reported just a single incident.

The most widely reported bias motivation was prejudice against race/ethnicity or national origin, representing 57.7 percent of the incidents. Bias against sexual orientation was the second most frequently cited motivation, with 22.1 percent of the total, and religious bias was third with 18.6 percent. Given that the Commonwealth's segregated residential patterns limit the exposure of one racial group to another, it is not surprising that the preponderance of incidents occur in those limited areas where the races to interact.

Other Fair Housing Resources

Fair housing organizations and other non-profits that receive funding through the HUD's Fair Housing Initiatives Program (FHIP) are often the first line of defense for people who believe they have been victims of housing discrimination. FHIP organizations conduct matched pair testing, initiate preliminary investigation of claims of discrimination, and provide education and training. The Fair Housing Center of Greater Boston, the Holyoke-based Massachusetts Fair Housing Center (also known as the Housing Discrimination Project, Inc.) and Community Legal Aid of Worcester all received funding under the Fair Housing Initiatives Program. The Fair Housing Center of Greater Boston works throughout Suffolk, Norfolk, Middlesex, Essex and Plymouth counties; Community Legal Aid, Inc. serves Worcester County; and the Massachusetts Fair Housing Center serves Berkshire, Hampden, Hampshire, and Franklin Counties, in addition to Worcester County. The Civil Rights Division of the Office of the Attorney General also provides fair housing assistance, testing, and enforcement.

V. Discussion of Impediments to Fair Housing Choice and Action Steps to Mitigate Impediments

1. Racially/Ethnically Concentrated Areas and Impact on Opportunity:

Racially/ethnically concentrated areas of poverty (“impacted areas”) have suffered from disinvestment and face challenges in providing housing choice that offers meaningful access to opportunity.

Neighborhoods in Massachusetts and across the country that are identified as “areas of concentrated poverty,” which strongly correlate with areas of racially/ethnically concentrated poverty due to historical segregation and inequities, typically lack the professional, social, health, and safety opportunities found in communities with greater financial resources. Such opportunities would not likely exist unless otherwise stimulated through investments.

Ironically, many poor neighborhoods have been sustained by certain investments. For example, assisted housing programs targeted to the poor are primarily financed by the federal government and incur multi-millions of dollars in annual operating and capital expenses; yet, reducing rent burdens for the poor does not by itself increase incomes that would in turn decrease the poverty profile of the neighborhood. As agencies that provide other critical services to reduce poverty struggle through inadequate or reduced funding, particularly in the current economic climate of budget cuts, the process of disinvestment worsens.

It is important to acknowledge that without housing investments in poorer communities with extremely low income and vulnerable populations, increases in homelessness, illness, and mortality may occur. Perhaps for this reason, various federal programs have targeted or provided relatively greater resources in communities with the most need. Additionally, as lower income neighborhoods are often in cities with higher construction, land, and utility costs, the federal Low Income Housing Tax Credit program deems them “harder to serve areas” and makes housing developments eligible for up to 30% more tax credits to the extent that they are located in Qualified Census Tracts (lower income tracts).

However, given that poorer communities tend to have certain attributes that impede opportunity such as lower performing schools and challenges to public health/safety, the critical questions for DHCD and its partners continue to be: how can we improve life chances and choices for protected classes and populations with varying needs and opportunities; how can we ensure an equitable balance in terms of public investments between communities higher in need and lower in opportunities with communities lower in need and higher in opportunities; and, to what extent can we realistically achieve a balance so long as there is a path, such as for local entities, to utilize and/or circumvent the regulatory landscape to limit access to opportunity? The fair housing impediments that provide greater context and add complexity to these questions are analyzed throughout this document and there is a common thread that unites the analysis: *the affirmative fair housing goal of removing barriers to opportunity that have discriminatory effects and creating opportunity that will result in equitable outcomes for protected classes*. Such “opportunity,” although referred to singularly as is “fair housing,” is multi-dimensional and multi-determined; at its essence, it is the confluence of suitable housing (that meets a variety of needs) with quality education, health, employment, and public safety.

As the thousands of Massachusetts households across all protected classes (i.e., racial/ethnic minority groups, persons with disabilities, and families with children) that reside in “lower opportunity” areas may not have the ability, means, or desire to relocate to “higher opportunity” communities, further action is needed to create new opportunities. Notably, the Obama administration designed the Choice Neighborhoods program in which HUD collaborates with the U.S. Departments of Education, Health and Human Services, Justice, and Treasury to counter decades of disinvestment. Choice Neighborhoods aims to reduce the neighborhood effects of concentrated poverty and to improve on the HOPE VI program¹²⁶ by transforming both public and assisted housing and the neighborhoods into which they are located from low-income to mixed-income with access to early education, high quality public schools, services, public transportation, jobs, and safer streets. The program requires applicants to achieve these goals by partnering with public and private agencies and social service organizations to create and implement a neighborhood “Transformation Plan.” A complementary program is the Department of Education’s Promise Neighborhoods program, which awards competitive funding points for neighborhoods participating in Choice Neighborhoods or HOPE VI.

The design of Choice Neighborhoods suggests that it will create more opportunities and achieve meaningful success due to the inter-agency effort and leveraging of resources. One of the program’s grantees includes the City of Boston/Dorchester Bay Economic Development Corporation, which provides an opportunity to demonstrate success and serve as a model for investments in other impacted Massachusetts neighborhoods.

While the full implementation of federal initiatives such as Choice Neighborhoods is ongoing, the state has focused on its own initiatives to spur investment in distressed communities as discussed below.

DHCD Action Steps

- Improved evaluation and funding criteria for housing investments in areas in need of comprehensive neighborhood revitalization. A comprehensive neighborhood revitalization effort may receive discretionary points under DHCD’s Low Income Housing Tax Credit Qualified Allocation Plan (“QAP”) if the proposed project is part of a formal neighborhood plan that indicates how the neighborhood revitalization effort incorporates and coordinates housing related conditions and opportunities such as transit, employment, community services, and affordable homeownership. Furthermore, DHCD adopted “investment in at-risk distressed neighborhoods” as an overarching Housing Development Funding Priority in 2012, so long as the housing investment is strategic and has a strong likelihood of catalyzing private investment, improving housing quality, and promoting occupancy at a range of household incomes.

¹²⁶ Choice Neighborhoods seeks to integrate greater tenant protections and services due to issues Under the HOPE VI program, under which residents identified hardships related to displacement from their current housing, receiving adequate services for relocation, and returning to the housing once redeveloped. Additionally, families with multiple problems, such as health, child care and employment problems were least likely to benefit from HOPE VI due to their need for greater services and supports. “Evidence Matters: Transforming Knowledge into Housing and Community Development Policy,” U.S. Department of Housing and Urban Development Office of Policy Development and Research, Winter 2011.

- DHCD will examine, with input from its partners, how to best measure and evaluate the extent to which neighborhood revitalization actually occurs as a result of housing investment in concert with a revitalization plan. DHCD notes that determining how to appropriately measure whether a community has “revitalized,” or will revitalize, as a result of a project or public investments is complex and may require a somewhat sophisticated regression or other multivariate analyses by partner agencies or research organizations. Determining whether poverty has decreased and whether “opportunity” or “community assets” has increased in a neighborhood that has undergone a revitalization project(s) might be a more workable measure, although the latter still requires input from the working groups and/or final direction from HUD.
- Developed the Housing Development Incentive Program (“HDIP”), a new state tax-credit program to spur market-rate housing development in the Commonwealth’s 24 Gateway Cities.
- Improved stabilization in communities that were affected by the foreclosure crisis, many of which have higher racial/ethnic minority group populations, through distribution of federal Neighborhood Stabilization Program (“NSP”) funds. These funds were used primarily for the acquisition and rehabilitation of abandoned and foreclosed properties.
- EOHED renewed and enhanced a commitment to invest in Gateway Cities to increase community revitalization in low-income, minority group, and immigrant areas through Gateway Plus Action Grants to increase economic opportunities and civic engagement and planning, as well as to increase diversity of housing options.
- EOHED oversees the state MassWorks Infrastructure Program, which provides public infrastructure funding to municipalities and other eligible public entities in order to support objectives such as economic development and job creation and retention, as well as housing development at density of at least four units per acre (market rate and affordable units) and transportation improvements to enhance safety in small, rural communities. A key feature of this program is that it offers a one-stop shop for funding applicants as well as a coordinated approach to consistency with the Commonwealth’s Sustainable development Principles,¹²⁷ whereas previously funding was distributed through six separate grant programs. Funding priorities help support, amongst other goals, reinvestment in Gateway Cities, and access to jobs through housing and transportation.
- Protected at risk affordable housing stock through Massachusetts General Laws Chapter 40T, “An Act Preserving Publicly Assisted Affordable Housing” (2009), which grants authority to DHCD to make an offer and/or respond to a right of first refusal when the owner of a covered property intends to sell the property. In 2010-2011 alone, 6,100 units were preserved.

Partner Actions

- The housing development community should ensure that the input it seeks and the partnerships it forms with community development, neighborhood building, and social

¹²⁷ The Sustainable Development Principles are: concentrate development and mix uses; advance equity; make efficient decisions; protect land and ecosystems; use natural resources wisely; expand housing opportunities; provide transportation choice; increase job and business opportunities; promote clean energy; plan regionally (see description of principles at <http://www.mass.gov/hed/docs/dhcd/cd/smartgrowth/sdprinciples.pdf>).

service groups meaningfully integrates the housing with other opportunities that are or may become available (subject to funding), such as access to quality schools, employment, and services. Fair Housing Advisory Panel members suggested that developers should identify barriers to opportunities that future residents may face as well as identify the partnerships that will be formed to mitigate the barriers. Furthermore, members recommended that developers be evaluated (i.e., by funding agencies such as DHCD and HUD) in terms of the success of such partnerships, acknowledging that successful development may involve various types of relationships in impacted/distressed neighborhoods where other issues, such as public safety, may be of concern for residents.

- Organizations that engage in data analysis and research could help build usable models for predicting public and private action that most effectively generate neighborhood revitalization, and for analyzing results and gentrification impacts of such revitalization.
- Distressed communities, including distressed entitlement communities funded directly through HUD, must continue to seek and maximize use of community development funds, such as Community Development Block Grant (“CDBG”) and Community Services Block Grant (“CSBG”) funds, to increase economic opportunities and to reduce isolation through community supports, particularly for immigrant populations with limited English proficiency. DHCD will also be improving partnerships with non-governmental entities by providing grants to Community Development Corporations so that they may increase economic opportunities for lower income households pursuant to the Community Development Partnership Act.
- Develop anti-displacement strategies, such as those provided in the Metropolitan Area Planning Council’s “Managing Neighborhood Change” online toolkit, available at <http://www.mapc.org/managing-neighborhood-change>. The toolkit includes examples of strategies implemented across the country to mitigate the effects that development and revitalization may have on lower income residents of the community. The goal of anti-displacement strategies such as inclusionary zoning, linking residents to jobs and transportation access, and formulating community benefits agreements between developers and community-based organizations is to ensure that the development will result in jobs, affordable housing, and greens space for enjoyment by low-income residents.

2. Access to Areas of Opportunity and Perpetuation of Residential Segregation: Areas that generally offer high quality education, economic opportunity and excellent public health outcomes (“non-impacted areas”) are not accessible to many persons of color and with disabilities, thereby perpetuating residential segregation.

Critical to fair housing choice is the ability to access communities that offer opportunities important to success and wellbeing in society, including quality education, employment and other benefits that derive from safe, stable, and healthy neighborhoods. DHCD and various partners and stakeholders recognize the importance of overcoming impediments that limit access to such neighborhoods. Impediments include actual or perceived discriminatory conduct or attitudes, imbalanced investment or distribution of resources, and zoning and other barriers that limit housing that is available and affordable in a range of communities for a range of needs, including the needs of families with children and persons with disabilities. Those who are not

able to access opportunity due to such impediments are often faced with housing choice that is de facto limited to areas with poorer educational, financial, and health outcomes.

Although the existence of residential segregation in Massachusetts, particularly in the Boston area, is not a new finding and has persisted for decades, recent analysis of 2010 Census data highlights how far behind certain metropolitan areas in Massachusetts still are compared to the rest of the country. For example, the Brookings Institute reported that the metropolitan area with the highest segregation scores for Hispanics/Latinos in the country was in the Springfield, MA metropolitan area, while the Boston metropolitan area was the fifth such area after the Los Angeles, New York, and Providence metro areas.¹²⁸ The Urban Institute also found that segregation, combined with equity factors such as neighborhood affluence, public school quality, employment, and homeownership, ranked the Springfield metro area the worst in the country in terms of Latino-white equity out of 100 metropolitan areas.¹²⁹

Existing patterns of race and ethnic segregation are addressed in the City of Springfield's draft AI (2013).¹³⁰ The draft observes that "On a regional scale, there is a long-standing and growing divide between the City of Springfield and its suburbs regarding race and ethnicity... What this divide looks like in the community is a diverse multiethnic city bordered by majority white suburbs, some of which have populations that are 95% or more white."¹³¹ The City's draft AI also recognizing the regional housing plan's identification of "zoning as one of our region's primary impediments to fair housing choice," stating further:

Over 40 percent of the municipalities in the region (19 communities) have regulations (zoning) that prohibit multi-family housing. Many of these same communities also have large minimum lot sizes that further limit housing choices. The City of Springfield is bordered by 8 municipalities, four of which have the most exclusive zoning in the entire Pioneer Valley region... Exclusionary zoning practices, which limit mobility, have helped to maintain the dominant spatial pattern of economic and racial segregation found in Pioneer Valley as well as in most metropolitan areas of the United States."¹³²

The City's draft AI includes various recommendations such as using federal of funds, including HOME and CDBG-DR, to create new homeownership units, and providing minority residents with assistance in accessing housing in high-opportunity communities through mobility counseling and/or demonstration program¹³³ (see section 12 below for further discussion of mobility and moving to opportunity demonstration programs).

¹²⁸ William H. Frey. "The New Metro Minority Map: Regional Shifts in Hispanics, Asians and Blacks from Census 2010." *Brookings Institution Report* (August 2011).

¹²⁹ *How Do the Top 100 Metro Areas Rank on Racial and Ethnic Equity?* Urban Institute (February 2012) (<http://www.urban.org/publications/901478.html>).

¹³⁰ See supra note 7 at pg. 5.

¹³¹ See supra note 7 at pg. 6.

¹³² See supra note 7 at pg. 53.

¹³³ Id. at pg. 81 (the recommendation includes partnering with HUD to create a moving to opportunity demonstration program involving mobility counseling and HUD small-market Fair Market Rent values to help Section 8 voucher-holders move to and afford communities outside of Springfield and Holyoke, as well as coordinating with the Springfield Housing Authority and HAPhousing to provide mobility counseling (note that similar recommendations are included with the discussion on mobility in section 12 below).

The extent to which persons of color have been isolated, not only in Pioneer Valley, but across Massachusetts, as a result of residential segregation is staggering. The Kirwan Institute previously found that more than 90% of African-American and Latino household were isolated in the lowest opportunity neighborhoods in the Commonwealth, compared to only 31% of White, non-Latino households. Asian households fell somewhat more in the middle, with over 55% in low-opportunity communities.¹³⁴ When considering income, both low and high, racial/ethnic disparities widened: while 42% of low-income white households were living in low-opportunity communities, more than 95% of low-income Latinos, 93% of low-income African Americans and 71% of low-income Asians were; and while 20% of high-income white households were living in low-opportunity neighborhoods, approximately 90% of high-income African-American and Latino households were.¹³⁵

*For further discussion of segregation indices and housing and neighborhood conditions across the state that affect, and vary across, protected classes in Massachusetts based on more recent U.S. Census Bureau and other data, see the Data Analysis section of this document.

As sobering as the segregation statistics are, the inequities that result from, or correlate with, segregation amplify the policy imperative to expand access to housing opportunities in non-impacted neighborhoods and communities. For example, Metropolitan Area Planning Council findings for the Metro Boston area illustrate the severity and “snowball effect” of inequity:¹³⁶

- ❖ Although the youngest population is the most diverse, children of color are highly concentrated in the urban areas such that they rarely grow up side-by-side White children.
- ❖ Black youth are hospitalized for asthma more than five times the rate of White youth.
- ❖ While only approximately 10% of White students attend high-poverty schools, almost 75% of Black and Latino students do.
- ❖ Black and Latino students have dropout rates at least three times White and Asian dropout rates.
- ❖ Only 65% of persons lacking high school degree are active in the labor force compared to 88% of persons with a bachelor’s degree.
- ❖ Black/African Americans die prematurely three times the rate 1½ times the rate of Whites and 3 times the rate of Asians.

The persistence of segregation also underscores that Massachusetts is behind in experiencing the benefits of living in a diverse and multicultural society, even though we have the opportunity to do so based on our increasingly foreign born population.¹³⁷ In addition to its importance as a policy matter, access to opportunity also has legal implications, particularly when it overlaps with racial/ethnic residential segregation as highlighted in *The Inclusive Communities Project, Inc. v. Texas Dept. of Housing and Community Affairs* (N.D. Tex. 2010) litigation.¹³⁸

¹³⁴ Id.

¹³⁵ Id.

¹³⁶ *The State of Equity in Metro Boston*. Metropolitan Area Planning Council (December 2011).

¹³⁷ Id.

¹³⁸ See further discussion in section 4 below.

It is important to note that access to opportunity is not only a function of racial and ethnic segregation; it is also dependent on variables relating to other protected classes. For example, opportunities that children have for quality education can predict their future attainment and life outcomes as discussed above, while disproportionate economic hardships and particular housing needs impact quality of life for persons with disabilities.

Recent HUD research on American Housing Survey (national) data indicates that neighborhood as well as housing characteristics tend to be less favorable for persons with disabilities.¹³⁹ Disabilities were measured as hearing, visual, cognitive, ambulatory, self-care, and independent living related disabilities or in terms of disability payment receipt. In comparison to persons without disabilities, people with disabilities lived in lower income areas and reported more neighborhood problems such as crime, noise, and proximity to high traffic areas; moreover, as prior research indicates, they also spend a larger share of their income on housing than persons without disabilities.¹⁴⁰ Therefore, affordable housing and non-impacted areas is particularly relevant to disability populations, although the metrics for determining opportunity should provide consideration or additional weight to factors such as access and proximity to health services and public transportation.

There is also a significant overlap between subsidized housing, which many persons with disabilities require due to inadequate disability income (i.e., SSI and SSDI), and non-impacted areas as discussed below.

Subsidized Housing:

As reported by the Kirwan Institute, over 70% (approximately 100,000 units) of all HUD-assisted rental units in Massachusetts, including those administered through the state, local housing authorities and private owners, were located in lower-opportunity neighborhoods (areas which comprised 40% of the total census tracts in the state).¹⁴¹ Nancy McArdle, a research consultant with expertise in fair housing related data analysis, received an independent grant through the organization Action for Regional Equity. The grant was generally to analyze state assisted housing data to expand upon previous analysis of federally assisted housing data within an “opportunity area” framework developed through Kirwan Institute research.¹⁴² The final Action for Regional Equity report, with Nancy McArdle as its primary author, is entitled “State-Assisted Housing and Rental Assistance in Massachusetts: Who is Served and Where” (May 2010).¹⁴³ Major findings¹⁴⁴ from said report are cited again below:

- ❖ In most major rental assistance program types in Massachusetts, half or more of households are headed by racial/ethnic minority group members.

¹³⁹ Hoffman, Denise W., and Gina A. Livermore, “The House Next Door: A Comparison of Residences by Disability Status Using New Measures in the American Housing Survey” in *Cityscape: A Journal of Policy Development and Research*, Vol. 14, No. 1 (2012), U.S. Department of Housing and Urban Development, Office of Policy Development and Research.

¹⁴⁰ Id.

¹⁴¹ See e.g., Kirwan, *The Geography of Opportunity*, Map 4. (Note that report cites HUD 2000 Picture of Subsidized Housing data).

¹⁴² Id.

¹⁴³ See supra note 5.

¹⁴⁴ The findings were based upon 2008 data that was available and does not represent the universe of all state-assisted units or households.

- ❖ Minority group representation differs greatly within the public housing programs, with just 13% of elders/disabled units headed by a minority group member compared to 61% of family units. However, these minority group shares do not differ greatly from the minority group representation of all extremely-low-income renters in these demographic groups statewide.
- ❖ In all major rental assistance program types, the majority of households are extremely-low-income (less than 30% of area median income), with 81% of state public housing households in this income category.
- ❖ Assisted rental housing is very disproportionately located in lower-opportunity areas. Statewide, 40% of census tracts are designated as lower-opportunity areas according to the Kirwan Institute opportunity index, which includes 19 measures of housing, educational, and economic opportunity. However, 70% of privately-owned/publicly subsidized units, and 72% of federal Section 8 units administered by regional non-profits are located in these lower-opportunity areas.
- ❖ Households with children are more likely to live in lower-opportunity areas than those without children. This disparity is related to, but not as dramatic as, disparities by race/ethnicity.
- ❖ In general, units with more bedrooms are more concentrated in lower-opportunity areas than are smaller units.
- ❖ Very high shares of households with mobile rental assistance, which presumably allow for greater mobility into higher opportunity areas, still reside in lower-opportunity areas.
- ❖ Although there is some variation, there is no consistent pattern that accessible units are concentrated in lower-opportunity areas. In fact, for privately-owned/publicly subsidized units, the opposite seems to be the case.

As a follow-up to the release of the report, DHCD hosted a fair housing roundtable discussion with key staff and expert presenters that included discussion of the results of the study in April of 2009.¹⁴⁵ Additionally, in 2011 DHCD worked to compile 2010 data according to the “opportunity area” designations that were created for the Action for Regional Equity Report and a follow-up research project. DHCD compiled data so that racial/ethnic participation in state assisted housing in communities designated as “urban” or “non-urban” and then as “higher,” “moderate,” or “lower” opportunity areas¹⁴⁶ could be examined at the county level as summarized below:

- ❖ State-aided public housing for the “Elders/Handicapped”) (“Chapter 667”):
 - In most counties, the majority of racial/ethnic minority group households were in lower opportunity urban and non-urban areas, and a very high percentage of minority group households in Franklin, Hampden, and Suffolk counties were in lower opportunity areas.
 - In contrast, in most counties, the majority of white households were in higher opportunity, non-urban areas or moderate opportunity areas.

¹⁴⁵ During the same month, DHCD released its “Affirmative Fair Housing Policy” (see <http://www.mass.gov/Ehed/docs/dhcd/hd/fair/affirmativefairhousingp.pdf>) which includes a discussion of discretionary funding preferences for housing located in opportunity areas.

¹⁴⁶ Note: for purposes of DHCD analysis contained in the present report, “area” and “community” are interchangeable.

- Notably, the percentage of minority group households in lower opportunity areas was significantly lower in Middlesex County compared to other counties; within Middlesex County, more minority group households were in higher opportunity, non-urban areas than in lower opportunity areas.
- In Barnstable County, a high percentage of both white and minority group households were in higher, non-urban opportunity areas.
- ❖ State-aided “family” public housing (Chapters 200 and 705):
 - In most counties, a significant majority of racial/ethnic minority group households were in lower opportunity, urban areas, particularly in Suffolk and Worcester Counties. A notable exception was Middlesex County, for which more minority group members were located in higher opportunity, non-urban areas than in lower opportunity areas.
 - White households were generally more distributed across higher and moderate opportunity areas than minority group households, although to a lesser extent than state-aided “elders/handicapped” public housing. In several counties the majority of white households were in lower opportunity areas, most notably in Franklin County.
 - In Barnstable County, a high percentage of both white and minority group households were in higher, non-urban opportunity areas.
- ❖ Private rental housing with state administered public subsidy (affordable units):
 - In most counties, a significant majority of racial/ethnic minority group households were in lower opportunity areas, with Barnstable County as a notable exception.
 - Unlike the state-aided public housing examined, the majority of white households were also in lower opportunity areas, and notably, often with an even *higher* percentage in lower opportunity areas than in the state administered rental assistance programs.
 - In Middlesex County, a greater percentage of minority group and white households were in higher opportunity areas than lower opportunity areas, although for minority group households this was the case in urban areas and for white households it was the case in non-urban areas.
- ❖ State-administered rental assistance (including Section 8 Housing Choice Vouchers):
 - In most counties, a high percentage of minority group households were in lower opportunity, urban areas, particularly in Hampden and Suffolk Counties.
 - White households were generally more distributed across higher opportunity areas than minority group households, although more counties contained a higher percentage of white households in lower opportunity areas in comparison to the state-aided public housing programs.
 - Unlike the public or private housing examined, in Middlesex County more minority group households were located in lower opportunity areas than higher opportunity areas, which was not the case for white households.

Notably, other data regarding mobility to opportunity areas through housing choice vouchers produces comparable results. For example, Urban Institute findings indicate that few experimental group families (who were limited to using a housing choice voucher during the first year to neighborhoods with a poverty rate below 15%) under the Moving to Opportunity (“MTO”) Demonstration Program actually spent much time living in what were deemed “high-

opportunity neighborhoods,” which may explain why the MTO family outcomes generally indicated significant improvements in health but not in employment, income, or educational attainment.¹⁴⁷

The Poverty & Race Research Action Council found through its 2012 research that although households with “housing choice” through use of Housing Choice Voucher Program (Section 8) vouchers typically live near better performing schools compared to households in public housing, they also typically live near lower performing schools compared to other poor households.¹⁴⁸ The research ranked metropolitan statistical areas across the country based on median proficiency of schools and household proximity to such schools by various federal programs, and comparatively the Boston MSA ranked low¹⁴⁹ (it is important to note, however, the research did not take school choice in Boston into account, which impacts the significance of these findings). A further discussion of policy implications concerning mobility to higher opportunity areas, including areas with higher performing schools, is included in section 12 below.

Although various data reveal the correlation between race/ethnicity and subsidized housing in illustrating or contributing to segregation, one cannot draw causal conclusions, or solutions, without acknowledging intervening factors such as access to public transportation. For example, public transportation may aid the concentration of poverty in part due to the need low-income persons have for public transportation. A study published in the Journal of Urban Economic examining Boston and other subway cities including Chicago, New York, and Philadelphia found that the transition from poor to non-poor areas occurs when cars replace public transportation.¹⁵⁰ In such subway cities, income was found to first decline from distance to the central business districts for up to three miles, after which income increased as the distance to the central businesses increased.¹⁵¹ Moreover, the research summarized, that when examining across cities, poor people are less centralized when there is less of a “suburb-central city gap in public transportation.”¹⁵²

For many, however, poverty would worsen without access to public transportation due to its key role in facilitating job access. According to a Brookings Institute study, zero-vehicle households in Boston had a 48.5% job access rate (ability to reach metro area jobs through transit service) compared to 28.5% rate for households in the metro area suburbs.¹⁵³ Transportation costs also interact with housing costs, as acknowledged by the Massachusetts Executive Office of Housing and Economic Development (“EOHED”) in incorporating “H + T Affordability Index”¹⁵⁴ on its website (<http://www.mass.gov/hed/economic/initiatives/housingthatworks/housing-affordability->

¹⁴⁷ Turner, Margery A., Austin Nichols, and Jennifer Comey with Kaitlin Franks and David Price.

“Benefits of Living in High-Opportunity Neighborhoods: Insights from the Moving to Opportunity Demonstration,” Urban Institute, Metropolitan Housing and Communities Policy Center (September 2012).

¹⁴⁸ Ellen, Ingrid Gould and Keren Mertens Horn, “Do Federally Assisted Households Have Access to High Performing Schools?” Poverty & Race Research Action Council, Civil Rights Research (November 2012).

¹⁴⁹ For example, the Boston MSA ranked 78th for the Housing Choice Voucher Program. Id.

¹⁵⁰ Glaser, Edward L., Mathew E. Kahn, and Jordan Rappaport, “Why Do the Poor Live in Cities?” Journal of Urban Economics 63, no. 1: 1-24 (November 2006).

¹⁵¹ Id.

¹⁵² Id.

¹⁵³ Tomer, Adie, “Transit Access and Zero-Vehicle Household,” Brookings Institute, Metropolitan Policy Program, Metropolitan Infrastructure Initiative series and Metropolitan Opportunity Series (August 2011).

¹⁵⁴ <http://htaindex.cnt.org/>.

[in-massachusetts.html](#)) relative to mapping priority areas for economic development. The H + T Affordability Index in the Boston-Cambridge-Quincy metropolitan statistical area, for example, illustrates that in areas outside of Boston and various Gateway Cities, most households are spending 15% or more of their income on transportation costs, and in many cases this overlays with spending 30% or more of household income on housing costs.

Furthermore, racial disparities in mode of travel and commuting time add an additional equity dimension for consideration. As recently reported by The Dukakis Center for Urban and Regional Policy based on an analysis of 2005-2009 American Community Survey data, whites are more likely to commute by car than racial/ethnic minority group members, whereas racial/ethnic minority group members are more likely to travel by public transit than whites.¹⁵⁵ Such a disparity is exacerbated by commuting time; for example, black bus riders spend 163 hours per in extra commute time compared to white car riders per year.¹⁵⁶ However, it is important to note that racial disparities *also* persist within public transit. The Dukakis Center found that black bus riders spent 66 more hours per year commute time than white bus riders.¹⁵⁷ Furthermore, until there is a wider range of accessible transportation options (including regional transit, para-transit and taxis), housing enjoyment as well as employment opportunities for many persons with disabilities will continue to be disproportionately affected.

In view of the various indicators such as transportation that shape the geographical opportunity lens, an important policy question persists, what is the best methodology for measuring opportunity, and should such a measure be universal or targeted to particular populations and/or goals?

The Kirwan research discussed above is based on the institute’s sophisticated methodology that integrates the following categories and variables to determine whether an area is “very high,” “high,” “moderate,” “low,” or “very low” opportunity:

Kirwan Institute Opportunity Indicators		
<u>Educational Opportunity:</u>	<u>Economic Opportunity:</u>	<u>Neighborhood/Housing Quality:</u>
Student expenditures	Unemployment rates	Home Values
Student poverty rate	Population on public assistance	Neighborhood vacancy rate
Students passing math tests	Proximity to employment	Crime index or crime rate
Students passing reading tests	Economic climate (job trends)	Neighborhood poverty rate
Dropout rate	Mean commute time home	Homeownership Rate
Graduation rate		Proximity to toxic waste release sites
Number of certified teachers		Proximity to superfund sites

Notwithstanding this robust approach, some questions have been raised as to the reliability and/or weight of certain indicators such as MCAS scores, the relevance of school poverty and location in areas where there is school choice (i.e., Boston), incomplete employment statistics and/or types of jobs measured (e.g., distinguishing entry level jobs versus other types of jobs or

¹⁵⁵ Stephanie Pollack, Dukakis Center for Urban and Regional Policy, Northeastern University. Presentation for the Metropolitan Area Planning Council, November 2012.

¹⁵⁶ Id.

¹⁵⁷ Id.

jobs in general), the triple counting of poverty (neighborhood poverty rate, student poverty rate, and population on public assistance), etc. Nevertheless, the Kirwan methodology provides a multifaceted approach that combines many factors, including factors that cut across groups (e.g., health and safety), therefore improving the likelihood of overall positive outcomes.

Other “opportunity” indicator data for consideration will include HUD’s Fair Housing Equity Assessment data (see below) after it is made available to the state.¹⁵⁸

HUD Opportunity Index (for Sustainable Communities)	
Opportunity Dimensions	Variables
Poverty Index	Family Poverty Rate Percent Households Receiving Public Assistance
School Proficiency Index	School Math Proficiency / State Math Proficiency School Reading Proficiency / State Reading Proficiency
Labor Market Engagement Index	Unemployment Rate Labor force Participation Rate Percent with a Bachelor's or higher
Job Access Index	Tract-level Job Counts Tract-level Job Worker Counts Origin-Destination Flows Aggregate Commute Time Tract-Tract Average Commute Time by Mode
Housing Stability Index	Homeownership Rate Percent Loans Low-Cost (Re-Fi) Percent Loans Low-Cost (New Purchases) Percent Vacant (Non-Seasonal) Percent Crowded

A key benefit of such “opportunity” data is that it can mapped at the state and other geographical levels, thereby provide an impactful visual narrative to continue to inform many of the impediments and responsive actions discussed in this and other related documents.

Framing Opportunity Mapping by Purpose and Use:

(1) Conceptualize the consequences of opportunity separation: the harm and the harmed
In order to address the harmful impact of separation from opportunity (e.g., poverty, poor educational and labor attainment, and unhealthy neighborhoods) resulting from historical discrimination, segregation, and disinvestment, the primary purpose of opportunity mapping should be to improve opportunity for those most impacted, including:

- a. *Civil rights protected classes*: racial/ethnic minority groups in particular are significantly impacted by geographical separation from opportunity, although

¹⁵⁸ Thus far HUD has developed and provided this data to grantees of its Sustainable Communities program.

government action to improve access to opportunity must consider all classes of persons protected under civil rights laws.

b. *Residents of concentrated poverty areas*: as poverty-concentrated areas strongly correlate with impacted areas (“low”/“very low” opportunity areas), residents of such areas should be amongst the primary beneficiaries of resources that will combat poverty and improve access to a host of complementary opportunities, including quality housing, education, employment, health, and public safety.

c. *Segregated communities*: communities that are segregated by race/ethnicity reflect polarization of opportunity, but do not mirror the Commonwealth’s overall characteristics or constitutional principles. Such communities also lack the diversity that many residents of the Commonwealth would otherwise seek. Therefore, it is useful to frame polarization of opportunity as weakening rather than strengthening the Commonwealth.

(2) Respond through intervention: a bridge to opportunity

Opportunity mapping can be used, particularly by government agencies, partners, and funding recipients, to “bridge the gap” between place and opportunity through distinct yet inter-dependent methods such as:

a. *Multi-sector place-based investments and comprehensive policies*: opportunity mapping should inform investments that will be targeted to improve opportunities in “lower opportunity”/impacted communities *and* create access to opportunities in “higher opportunity”/non-impacted areas based on comprehensive policies that address:

- i. Housing (new development as well as preservation with revitalization)
- ii. Community development and infrastructure to foster healthy, economically strong, and vibrant communities that equitably reflect the resources of their region and the state
- iii. Services (e.g., health/safety, education, child care, employment, transportation)

Such investments should be made by various sources (i.e., government and funding entities), and in a coordinated and ongoing manner, so that the investments can efficiently and effectively broaden the opportunity map.

b. *Local and regional planning and land use*: opportunity mapping and principles must influence local and regional planning, as well as local zoning and land use, to expand access to opportunities within and beyond local boundaries. Without such local and regional action (particularly land use decisions), place-based investments, including affordable housing and related development, may be thwarted or stalled.

c. *Household mobility supports*: opportunity mapping could also serve as a critical tool for encouraging households, including those with housing choice vouchers, to move to non-impacted areas and take advantage of existing or new place-based investments. However, as mobility success depends in part on individual household needs and abilities which may or may not relate to all opportunity indicators, such indicators should be separable in a user-friendly fashion (e.g., through easy to use online tables and map overlays).

d. *Legislative and administrative action*: legislative and administrative initiatives, including the creation of a task force to improve opportunity structures and systems, could be supported and informed by opportunity mapping.

(3) Build support and measure progress: a teaching and learning tool

Another primary purpose of opportunity mapping is to inform data analysis, which in turn can serve to underwrite, promote, and evaluate public and private initiatives through:

a. *Baseline data*: the opportunity indicators and mapping can be used as a standard “learning tool,”¹⁵⁹ including as a baseline for: decision-makers to establish shared policies; researchers to integrate into existing or new data analysis models; and other interested parties to have a streamlined understanding of the relationship between opportunity and equity.

b. *Outreach*: such baseline data may also serve as an invaluable “teaching tool” to garner support from stakeholders, particularly to the extent it can be presented and made available through a user-friendly format.

c. *Evaluation*: opportunity data can also function as an “evaluation tool”¹⁶⁰ for public and private initiatives; for example, it could be used to examine whether inequities in access to opportunities and levels of segregation have improved or worsened, and whether intervention responses are successful relative to opportunity and affirmatively furthering fair housing. However, such a tool should not be utilized in a vacuum apart from other potentially relevant data, including qualitative data relating to individual choice and neighborhood support networks.

Considerations for Further Discussion:

An important consideration for further discussion includes whether “opportunity” should be defined the same way for all purposes. The Kirwan and HUD multi-indicator approach to measuring opportunity is broad and usable enough to suit many purposes. In contrast, reliance on singular data seems inadequate, particularly when considering that some needs may vary disparately across certain classes of persons (e.g., quality schools and jobs may be more critical to working families with children than persons who do not have children or are not working due to disability or age). However, it is also important to consider that aggregating all indicators to designate a neighborhood or community’s place on an opportunity continuum may mask the significance of certain variables for particular groups (e.g., access to public transportation may be more critical to very low-income working households or persons unable to drive due to disability or age). Therefore, it may be appropriate to distinguish certain indicators or use them to

¹⁵⁹ See e.g., Reardon, Tim and Holly St. Clair, “The Opportunity Mapping Framework—Limitations and New Directions: A Working Paper by the Metropolitan Area Planning Council” (February 1, 2012) (opportunity mapping as an evaluation tool “for comparing alternative regional development scenarios to assess their impact on issues of opportunity”).

¹⁶⁰ *Id.* (opportunity mapping as a learning tool “to help stakeholders build a shared understanding of equity issues within their region”).

overlay universal concepts of opportunity (e.g., public safety and health). Such an approach may be particularly relevant to household-based assistance and/or targeted mobility initiatives.

Synthesizing the various responses and approaches to these important policy questions should be usable yet dynamic enough to address various needs and goals. It should not under-value real challenges individuals and families face, particularly amongst the state's most vulnerable populations. In sum, any approach must be multi-faceted and such facets should be capable of being viewed jointly as well as separately. Most importantly, it must be subject to continuing dialogue and evaluation.

DHCD continues to engage with policy-makers, researchers, advocates, and other stakeholders in developing this framework.

DHCD Action Steps

Key action steps that DHCD/EOHED has already taken include:

- Incorporated Fair Housing Mission Statement and Principles and Sustainable Development Principles, which include equity, housing choice and opportunity, into programs and funding review.
- Revised the state's Low Income Housing Tax Credit Allocation Plan ("QAP") in 2008:
 - Increased competitive scoring points for developments located in areas low in poverty and subsidized housing
 - Increased points for developments with increased accessibility or features of Universal Design or Visitability
 - Decreased points for local support
 - Removed requirement for municipal approval
 - Incorporated various Universal Design features into its fundamental project characteristics design scoring
 - Enhanced "comprehensive neighborhood revitalization" criteria
- Continued to promote public transportation access through Transit Oriented Development ("TOD") Infrastructure and Housing Support Program.
- EOHED partnered with regional planning agencies and other regional organizations to develop the 495/MetroWest Compact Development Plan.¹⁶¹ Such planning furthers regional equity by coordinating job growth with development in transportation, housing, and other investments, thereby increasing meaningful access to opportunities for protected classes in the region. The Plan was developed as a comprehensive land use and development plan through engagement of the region and collaboration amongst the Central Massachusetts Regional Planning Commission, the Metropolitan Area Planning Council, the MetroWest Regional Collaborative, the 495/MetroWest Partnership, and the Mass Audubon. A primary objective of the Compact Plan, which was modeled after the award-winning South Coast Rail Corridor Plan, is to identify priority development and preservation areas as well as significant transportation and infrastructure investments for

¹⁶¹ See

<http://www.mass.gov/hed/economic/eohed/pro/planning/metrowest/495metrowestdevelopmentcompactplan.pdf> .

the region. The following are key communities that were identified for development and investment, and also primarily “higher opportunity” communities:

Acton	Hopkinton	Natick
Ashland	Hopedale	Norfolk
Bellingham	Hudson	Northborough
Berlin	Littleton	Sherborn
Boxborough	Marlborough	Southborough
Franklin	Maynard	Shrewsbury
Framingham	Medfield	Sudbury
Grafton	Milford	Upton
Harvard	Millis	Westborough
Holliston	Medway	Westford

Note: A detailed listing of sites and related maps can be found at <http://www.mass.gov/hed/economic/eohed/pro/planning/metrowest/the-plan-and-maps/>.

The Plan recognizes that housing choice in the 495 Compact region is limited not only due to constrained housing growth, but also due to constrained housing diversity as the majority of the homes are single-family, ownership, and not affordable.

Recommendations in the Plan include: creating housing opportunities within commercial areas (and thereby enhancing business in such areas); focusing on residential land uses in town centers so that a greater number of units can be created; diversifying housing options (including more affordable multifamily rental housing); and locating units in areas with transit access to reduce housing-transportation cost burdens.

Such recommendations not only support economic growth and an adequate labor force for the region, but also support fair housing goals by expanding housing choice within the region, including by increasing the number of accessible and affordable units through new development, and by combining such choice with other amenities so that the region, and the “higher opportunity” communities that it is comprised of, is more attractive and accessible to families and individuals.

- Collaborated to link Data Collection results with the Kirwan Institute “opportunity area” indicators (e.g., location of state assisted housing and vouchers relative to areas low in poverty and crime and high in access to good education and employment, etc.).
- Convened “Area of Opportunity” roundtable for key housing agency decision-makers.
- Supported the Neighborhood Rental Initiative (“NRI”), a program developed and funded by the Massachusetts Housing Partnership in coordination with DHCD to support small scale, affordable, multi-family rental development in “opportunity”¹⁶² communities (suburban and rural communities) where there exists a shortage of affordable family rental development. Projects developed through the NRI may be developed by Local Housing Authorities or for-profit or non-profit developers. Section 8 PBV vouchers for units with two or more bedrooms were initially made available as part of this NRI Initiative for NRI projects located in suburban and rural communities.

¹⁶² Determined based on Kirwan Institute study, *supra* note 2.

- Formulated key funding priority categories outlined below that developer applications must satisfy in order to be considered and proceed to full application review. Furthermore, DHCD also adopted through its 2013 QAP (also outlined below), a more detailed schema for defining and awarding discretionary points for developments based on “location in an area of opportunity.”

HOUSING DEVELOPMENT FUNDING PRIORITIES

6/19/12

(<http://www.mass.gov/hed/docs/dhcd/hd/lihtc/hs-developmentfunding.pdf>)

PRIORITY CATEGORIES

Applications to DHCD in the October 2012 rental round were required to fit within one or more of the following categories:

1) Housing for extremely low-income (ELI) individuals, families, and seniors

earning less than 30 percent of area median income with a particular focus on those who are homeless or at risk of homelessness. Projects in this category must be supported by tenant services and include at least 20 percent ELI units. Projects can serve families or individuals, seniors, persons with disabilities, and persons with special needs.

2) Investment in distressed and at-risk neighborhoods

where strategic housing investment has a strong likelihood of catalyzing private investment, improving housing quality, and promoting occupancy at a range of household incomes. Projects in this category include projects located in the Commonwealth’s 24 Gateway Cities and/or Qualified Census Tracts (QCTs, as defined by Section 42 of the Internal Revenue Code). Projects serving families, seniors, persons with disabilities, or populations with special needs are eligible in this category.

3) Preservation of existing affordable housing

that extends affordability in situations that are consistent with QAP policies and the preservation working group policies (matrix). To be eligible to apply for 9 percent tax credits, a sponsor must demonstrate that the project is infeasible with 4 percent credits and tax-exempt financing. Projects serving families, seniors, persons with disabilities, or populations with special needs are eligible in this category.

4) Family housing production in neighborhoods and communities

that provide access to opportunities, including but not limited to, jobs, transportation, education, and public amenities. Access to opportunity locations will be defined by publicly-available data. At least 65 percent of the units in a project must be 2 BR or larger, and at least 10 percent must be 3 BR, unless that percentage of 2 BR or 3 BR units is infeasible or unsupported by public demand. Projects serving families, including families with a member with a disability or special needs, are eligible in this category.

ADDITIONAL CONSIDERATIONS

Projects that fall into one or more of these four funding categories and that also meet pre-screening criteria and QAP threshold criteria will be competitively scored. In order to achieve a balance between locations and housing types and to promote the most effective uses of limited public subsidy, the Department also will consider the following:

Geographic Balance

It is important to ensure that changes to the QAP do not disproportionately affect particular regions or types of communities. DHCD currently considers geographic distribution in making funding decisions and will continue to do so.

Location and Transportation

Housing affordability is now often defined by the combination of housing costs and transportation costs. The competitive scoring of state funding applications should take this into account through enhanced scoring for transit-oriented developments with the possibility of additional points for projects located in close proximity to public transportation (for example: within ¼ mile of a rapid transit or community rail station).

Subsidy Efficiency

Given the increasingly constrained subsidy resources, DHCD must evaluate the amount of state subsidy requested per affordable unit. This evaluation may include leveraging of local financial support, donated land, and other resources. However, DHCD recognizes that certain smaller, mission-driven projects (such as housing for formerly homeless households) tend to require more subsidies per affordable unit.

Community Development Impact

The Department seeks to support affordable housing projects that also advance broader community development goals while understanding that such strategies will vary from municipality to municipality. An ideal community development strategy would address multiple goals and may include: the role of residents, local businesses and other local stakeholders in the development process; whether the project is part of a series of connected or linked real estate projects that together are designed to revitalize the area; whether the project or development sponsor links residents to community services, such as education, workforce development, recreation, and other amenities; or whether the project is part of a neighborhood or community plan that was developed with community input and leadership, whether or not it is an official municipal plan.

DHCD's Draft 2014 QAP further incorporates "opportunity" through the document's "preservation matrix" by adding an "investment in opportunity" category, which provides higher credit allocation priority for preservation of housing in a neighborhood or community with a relatively low concentration of poverty (below 15%) based on HUD data and that offers access to jobs, health care, high-performing school systems, higher education, retail and commercial enterprise, and public amenities, or other similar indices of opportunity consistent with DHCD fair housing principles and policies. Middle priority applies if preservation provides access to jobs, health care, high performing schools, higher education, retail and commercial enterprise

and public amenities, and/or provides resources on-site or within the immediate area that address the lack of any such elements.

Fair Housing Advisory Panel Input on Access to Opportunity:

DHCD reconvened its Fair Housing Advisory Panel in April of 2012 and has met since then to gather further input in order to update its AI. DHCD articulated its primary goal of furthering housing choice that provides meaningful access to opportunity with the premise that critical opportunities for success in society include quality education, employment, safe neighborhoods, and services and environments that foster physical and mental health. DHCD also articulated that realizing such a goal requires addressing barriers to both disinvestment and segregation, reaching beyond housing, and reaching beyond DHCD. Highlights from Panel input are as follows:

Goal: Further Housing Choice that Provides Meaningful Access to Opportunity

Additional Issues Identified by FHAP for Consideration:

- Importance of quality, racially integrated education and services that foster greater life improvement in general, as well as other factors that affect one's life chances (e.g., wealth) and well-being (e.g., freedom from stigma racial profiling)
- Sustainability in providing meaningful access to opportunity, for example, the MTO issues where people moved and then had to move back in a couple of years, including due to rental assistance caps on vouchers that limit where people can use vouchers
- Extent of transportation access
- Other sources besides physical distance also matter, such as existence of after-school programs or transportation to after-school programs

Strategic Objectives:

DHCD underscored for the Panel its objectives of supporting inclusion of affordable rental family housing in non-impacted areas *and* housing and community re-investment in impacted areas. The role of DHCD includes incorporating objectives into funding decisions and assisting consumers in accessing information about opportunities. DHCD decisions must acknowledge key subsidiary factors such as land cost differentials and availability, cost of transportation connections, and community attributes such as child care, affordable food and shopping.

Additional Issues Identified by FHAP for Consideration:

- Consider the effect of labeling communities as “low opportunity.”
- Consider areas that are not high or low; areas may not be high priority for different reasons
- Use “balance” terminology; look at areas where there has been balance, including with funding, and whether public funds for housing are going out in a balanced way.
- Funding decisions should target and treat differently the following, which may vary by regional area: 1) historically disinvested areas that may need targeted reinvestment; 2)

segregated, higher poverty areas where affordable housing may deepen isolation; 3) places of opportunity with development but type of development may preclude choice and exacerbate segregation; and 4) areas with no infrastructure and not a high priority area

- Prioritize towns that have already made commitment to equal opportunity in other areas such as education and percentage of affordable and accessible housing
- Score developers on how they achieve goals, including access to social services, day care, schools, and other community resources

“Beyond DHCD” and Need to Address Other Conditions that Support Barriers:

Action by other partners and agents are also needed, including at the government level, such as through coordination of incentives and funding for public investments and local rezoning efforts, as well as by advocates, community development organizations, and private entities to address other conditions that support barriers, such as community opposition, land cost differentials, building costs, and availability of social services and supports.

Additional Issues Identified by FHAP for Consideration:

- Other local barriers include local ordinances and regulations, planning efforts (short and long-term such as through master plans), and use of residency preferences
- Local housing authority abstention from project-basing vouchers in higher opportunity areas
- The extent to which developers identify barriers to opportunity, form partnerships with other governmental entities and non-profits to address the barriers, and demonstrate success in overcoming the barriers
- Preservation of existing affordable housing should take into account the extent to which it preserves segregation patterns
- Siting is dependent not only on zoning and land costs, but also building costs, including escalating material and soft costs, and environmental concerns
- Accessibility tends to be limited to smaller sized units (less than 3 bedrooms).
- Discriminatory housing practices in the market can affect mobility to higher opportunity areas

Prior to the completion of the Fair Housing Advisory Panel meetings, DHCD made significant alterations to its housing development funding application process by requiring housing development applications to fit within one of Housing Development Funding Priorities (outlined above) in order to be considered and proceed to full application review. DHCD also adopted through its 2013 QAP (outlined below) a more detailed schema for defining and awarding discretionary points for development based on “location in an area of opportunity.”

Location in an Area of Opportunity

For purposes of allocating the credit in 2013, DHCD has established four priority funding categories, including location of a family project in an “area of opportunity”. In 2013, DHCD also is awarding special project points for location within an area of opportunity. The Department defines an area of opportunity in part as a neighborhood or community with a relatively low concentration of poverty based on U.S. Department of HUD data. In addition, DHCD identifies an area of opportunity as a neighborhood or community that offers access to opportunities such as jobs, health care, high-performing school systems, higher education, retail and commercial enterprise, and public amenities. To determine whether a location is an area of opportunity, sponsors should use publicly available data such as employment statistics; location near mass transit, green space, and other public amenities; educational testing data; and so on. Sponsors also should confirm with DHCD that their evaluation of an area of opportunity is consistent with the Department’s evaluation, since the Department will make the ultimate decision.

To be eligible to receive points within this category, a family housing project typically must be located in a census tract with a poverty rate below 15%. Projects located in municipalities with overall poverty rates below 15% may also qualify for points within this scoring category. On a case by case basis, at its sole discretion, the Department will permit certain projects to receive points in this category if the poverty rate in the census tract and/or the municipality is 15% or higher, as long as the project is located in an area with compelling attributes that make the location desirable to renters.

To be eligible to receive points within this category, a family housing project also must include certain design characteristics: the project must be configured to contain at least 65% two-bedroom or larger units and at least 10% three-bedroom units, unless either percentage is demonstrated to be infeasible or unsupported by public demand.

If the thresholds described above have been met, DHCD will award points within this category as follows:

Up to 8 points for strength of public school system:

Points will be awarded to family housing projects as follows based on the percentage of 10th grade students that score in the Advanced or Proficient categories using an average of the 3 MCAS tests (English Language Arts, Mathematics, and Science and Technology Engineering) as available at http://profiles.doe.mass.edu/state_report/mcas.aspx :

90% or above: 8 points

85% or above: 6 points

80% or above: 4 points

75% or above: 2 points

Up to 6 points for access to employment:

Points will be awarded as follows based on the proximity to jobs of the municipality in which the family housing project is located as defined by average vehicle miles travelled by commuter as

available at <http://www.mass.gov/hed/housing/affordable-rent/low-income-housing-tax-credit-lihtc.html> :

5 miles or less: 6 points

7 miles or less: 4 points

9 miles or less: 2 points

Up to 2 points for access to higher education:

Two points will be awarded within this category to family housing projects located within two miles of community colleges and/or state colleges/universities within the University of Massachusetts system.

Up to 2 points for access to health care:

Two points will be awarded within this category to family housing projects located within one mile of a major health care facility, such as a hospital, an urgent care center, or a neighborhood health clinic.

The maximum number of points awarded in this category will be 14 points.

DHCD will continue to consult with fair housing Panel members and advocates, researchers, and other stakeholders regarding additional indices and measures of opportunity in accordance with the discussion above (“Framing Opportunity Mapping by Purpose and Use”). Moreover, DHCD will continue to consider a framework of “impacted” and “non-impacted” areas in view of concerns that labeling communities as “low opportunity” may negatively impact (i.e., in effect unintentionally “redline,” so to speak) such communities, and may undervalue aspects of the community that would provide significant opportunities for some populations (e.g., extremely low-income households in need of deeper affordability and public transportation access).

Partner Actions

- The housing development community should identify the types of actions it can take and partnerships it can form to mitigate barriers that households may face in accessing opportunities relative to the location of the housing.
- Other state and federal agencies should partner with DHCD to determine resources that could be best leveraged to ensure housing can be sited in areas that host or provide access to opportunities as discussed in section 6 below.
- Inter-agency partnerships might also include a memorandum of understanding between DHCD, MassDOT, and ANF to integrate funding for affordable housing with funding for transportation that reaches jobs and services.
- The business community should also expand supplemental transportation methods, such as shuttles and other transportation solutions, in order to connect employees with public transit to ensure meaningful and equitable access between housing and employment in non-impacted areas.

3. Restrictive Local Zoning and Multifamily Housing: Restrictive local zoning impairs achievement of fair housing objectives and benefits throughout Massachusetts, including insufficient by-right permitting for multifamily housing.

Perhaps the sharpest delineation of the discriminatory effects of local zoning in Massachusetts, and to the extent it persists, perpetuation of such effects, is drawn from communities that do not zone for multi-family housing as of right and/or disproportionately permit age-restricted housing. Based on an analysis by the Fair Housing Center of Greater Boston, 43% of municipalities in the Boston metropolitan area have over 90% of land zoned for single-family use, while an additional 27% and 10% contain 81%-90% of land zoned for single-family use and prohibit multi-family housing or limit it to age-restricted housing (55 years of age or older), respectively.¹⁶³ Furthermore, the 75 communities with no multi-family zoning, or alternatively age-restricted zoning or large minimum lot size requirements, are predominantly “high opportunity communities.”¹⁶⁴

Such data demonstrates the essence of “exclusionary zoning” and its pervasiveness in Massachusetts. Commentators and researchers point out that Massachusetts does not mandate regional planning (with community implementation) or require that all local jurisdictions implement a local comprehensive plan that contains a housing element;¹⁶⁵ therefore, new legislation such as the Comprehensive Land Use Reform and Partnership Act (see also discussion of Land Use Partnership Act below) has been recommended to address these gaps, but has failed to pass. Most recently, Representative Stephen Kulik and Senator Daniel Wolf have filed “An Act Promoting the Planning and Development of Sustainable Communities” (H.1859),¹⁶⁶ which includes sections on inclusionary zoning and incentives for communities to opt-in for certain zoning changes consistent with the state’s Sustainable Development Principles.

Exclusionary zoning and fair housing are inextricably linked as it impedes the development of affordable housing and fair housing protected classes, particularly families with children and persons of color, are disparately impacted by inadequate affordable housing. The high cost of living in Massachusetts exacerbates the problem, but even on the national scale, racial disparities relative to the need for affordable housing are very significant. For example, PRRAC’s analysis of the National Low Income Housing Coalition 2013 *Out of Reach* report found that 47.6% of African American families and 46% of Hispanic families have an annual income insufficient to afford a two-bedroom apartment, compared with 23.4% of non-Hispanic White families and 22.8% of Asian families.¹⁶⁷ Such disparities are compounded when location of affordable housing is inversely related to location of opportunities outside of housing, such as safe neighborhoods and quality schools (discussed in section 2 above and in the Data Analysis section

¹⁶³ <http://www.bostonfairhousing.org> .

¹⁶⁴ Id. (80% of the census tracts in the 75 Boston Metro municipalities with restrictive zoning are high or very high opportunity).

¹⁶⁵ See e.g., Bratt, Rachel G. and Abigail Vladeck (assisting), “Overcoming Restrictive Zoning for Affordable Housing in Five States: Observations in Massachusetts,” Department of Urban and Environmental Policy and Planning, Tufts University, for the Citizens’ Housing and Planning Association. (February 10, 2012).

¹⁶⁶ <http://mahouse.gov/Bills/188/House/H1859>.

¹⁶⁷ Silva Mathema, PRRAC’s Analysis of NLIHC’s ‘Out of Reach 2013’ Report,” Poverty & Race Research Action Council (March 2013).

of this document), which in Massachusetts, are often the very locations that contain restrictive zoning and land use practices.

Exclusionary zoning and permitting practices may also have a disparate impact on other protected classes such as persons with disabilities, who are more likely to require affordable and/or accessible housing. As the housing stock in Massachusetts is primarily older housing built before accessibility requirements were imposed by federal and state accessibility laws, the creation of accessible units is largely dependent on the extent to which newly created housing is permitted by cities and towns. The creation of new housing, however, is necessary but not sufficient; such housing must not solely consist of townhouses or other housing type would be exempt from accessibility requirements as discussed further in section 14 below.

Subsidized Housing:

Chapter 40B, the state's affordable housing zoning law, has been the primary tool for combatting exclusionary zoning and providing subsidized housing in non-urban communities in Massachusetts for decades. However, there have been various attempts to repeal this statute over the past several years. Question 2 on the November 2, 2010 statewide ballot sought to repeal the statute; although the repeal was defeated, 900,405 (42%) voters supported the repeal. In 2011, Chapter 40B was challenged again through Petition 11-24, although ultimately the Massachusetts Office of the Attorney General denied the requisite certification for the petition. The petition sought, inter alia, to dramatically reduce the Chapter 40B safe harbor for communities that have achieved a subsidized percentage of their year-round housing stock from 10% to 3%. Most recently in 2013, Senate Bill No. 72, "An Act Relative to Affordable Housing Community Planning," proposes various reforms to Chapter 40B. Such reforms could be significant as they would define affordable housing need relative to the current population of municipalities, as opposed to remaining consistent with state objectives to address regional needs, by allowing for local programs that are not subsidized/administered through DHCD or other state or federal agencies.

DHCD Action Steps

- EOHED is currently evaluating and supporting revisions to the Massachusetts zoning statute, Chapter 40A, which would further reduce local zoning barriers to multifamily and affordable housing and related litigation. This effort has included EOHED engagement with the state legislature, cities and towns, and other interested groups in proposing the Land Use Partnership Act ("LUPA").¹⁶⁸ One of the major objectives of LUPA is that communities will enact and implement zoning and other land use regulations that, to the extent practicable, make development as of right. A different bill, "An Act Promoting the Planning and Development of Sustainable Communities" (HD 3216), supported by the Massachusetts Smart Growth Alliance was proposed in 2013. The bill proposes additional incentives for communities to "opt-in" to zoning change, including by establishing a housing development district(s) that can accommodate 5% of a

¹⁶⁸ The Land Use Partnership Act is legislation that resulted from the Zoning Reform Task Force deliberations between 2007 and 2009. The bill was filed for consideration during the 2009-2010 Legislative Session, and again during the 2011-2012 Legislative Session.

municipality's existing year-round housing units by right over a ten year period.¹⁶⁹ The incentives proposed include preference for state discretionary funds and grants and priority for state infrastructure funding as well as other benefits such as broader use of impact fees and ability to regulate the rate of development.

- Continue promotion of Chapter 40B, DHCD's Local Initiative Program, and inclusionary zoning, including through conferences, outreach, and technical assistance by DHCD's Office of Sustainable Communities.
- DHCD is also augmenting support for Chapter 40R, as it is an important mechanism for structuring incentives for communities to reduce local barriers (i.e., zoning) to housing opportunities, particularly in suburban areas which are also predominantly non-impacted areas. Chapter 40R also explicitly fosters fair housing and expanding access to opportunities; the 40R regulations require that developments are subject to affirmative fair housing marketing plans, and such plans are in turn subject to DHCD's Affirmative Fair Housing Marketing Plan and Resident Selection Guidelines.¹⁷⁰

It is also important to note that Chapter 40R, the Compact Neighborhoods program (see section 6 below), and the related MassWorks program, are consistent with the Commonwealth's Sustainable Development Principles regarding equity and expanding housing opportunities. Although 40R primarily is primarily relevant to suburban areas, urban areas (e.g., Chelsea) have also benefited. Furthermore, urban areas also benefit from state investments in community development and improvements through the Gateway Cities initiative.

- DHCD will institute a policy related to Subsidized Housing Inventory ("SHI") eligibility, to be finalized in FY 2014, to address the imbalance of age-restricted housing versus housing for families with children. Furthermore, in determining whether a housing development site is appropriate under the state's affordable housing zoning law, M.G.L. c. 40B, DHCD and state subsidizing agencies will take into account information provided by a municipality as to whether it has met the purpose of Chapter 40B in meeting regional housing needs. This would include municipal efforts to create zoning districts and/or requirements that provide the opportunity for affordable housing, including affordable housing that is available to families with children (i.e., for which at least 10% of such housing contains units with 3 or more bedrooms).

Partner Actions

- Collaborations between Regional Planning Agencies and the Massachusetts Municipal Association that explicitly incorporate a fair housing and equity agenda.
- Community allocation of resources for affordable, multifamily housing, including through the Community Preservation Act ("CPA").¹⁷¹ It is important to note however that in 2012, the state legislature made changes to the CPA that expands funding as well as the permissible use of such funding for recreational use. The budget amendments

¹⁶⁹ <http://ma-smartgrowth.org/wp-content/uploads/Summary-of-Consensus-Bill-Final-1-22-13.pdf> .

¹⁷⁰ <http://www.mass.gov/hed/docs/dhcd/hd/fair/afhmp.pdf> .

¹⁷¹ M.G.L. c. 44B. The CPA, which provides for state matching grants to local communities levying surcharges on annual real estate taxes, was originally enacted in 2000 to support affordable housing, historic preservation, and open space.

passed for the FY 2013 budget include increased flexibility for CPA to support recreational use by allowing funds to be used for rehabilitation of existing recreational land (not created or acquired with CPA funds) and by expanding the definition of rehabilitation to allow for capital improvements and replacement of recreational equipment. Communities that focus on increasing affordable housing, despite the expansion of CPA for recreational purposes, will play an important role in opening opportunities.

4. Effectiveness of Fair Housing Laws in Addressing Restrictive Local Zoning: Current state and federal fair housing laws have advanced fair housing rights in various respects but have not sufficiently prevented or remedied the fair housing effects of restrictive local zoning.

Significant advances have been made with respect to additional fair housing protections under federal and state law, particularly regarding sexual orientation and gender identity, violence against women, and housing practices that have a disparate impact. However, the extent to which current fair housing laws will be effective in addressing restrictive local actions that collectively perpetuate segregation, a particular challenge in Massachusetts as discussed in the Data Analysis section above and throughout this document, remains to be seen.

In 2012, HUD promulgated its Final Rule on “Equal Access to housing in HUD programs--Regardless of Sexual Orientation or Gender Identity.”¹⁷² Said rule amends various HUD program regulations to ensure non-discrimination on these bases. As the Federal Fair Housing Act has yet to be amended to include sexual orientation and gender identity as protected classes, HUD’s non-discrimination enforcement power is limited to its own programs. It should be noted however that Massachusetts does have such enforcement power, as its anti-discrimination law, Massachusetts General Laws Chapter 151B, already protects persons on the basis of sexual orientation in Massachusetts, and was further amended in 2011 (effective July 1, 2012) to prohibit discrimination on the basis of gender identity.

HUD’s Office of Fair Housing and Equal Opportunity (“FHEO”) also issued in guidance in 2011 to FHEO headquarters and field staff on assessing housing discrimination claims by victims of domestic violence, including gender discrimination claims under the Fair Housing Act, and further clarified housing protections for victims in federal public housing and voucher programs pursuant to the Violence Against Women Act (“VAWA”).¹⁷³ Furthermore, Massachusetts law (“An Act Relative to Housing Rights for Domestic Violence, Rape, Sexual Assault and Stalking,” 2013) provides that a victim may vacate his/her lease or rental agreement without financial penalty if he/she provides “proof of status” of being subject to, or under imminent threat of, domestic violence, rape, sexual assault, or stalking within the last three months.

¹⁷² Docket No. FR 5359-F-02] RIN 2501-AD49.

¹⁷³ See FHEO Memorandum for Regional and Field Office Directors, “Assessing Claims of Housing Discrimination Against Victims of Domestic Violence under the Fair Housing Act (FHAct) and the Violence Against Women Act (VAWA)” (February 9, 2011).

As discussed in the Fair Housing Legal Context section above, in 2013, HUD announced its issuance of the “Implementation of the Fair Housing Act’s Discriminatory Effects Standard” Final Rule.¹⁷⁴ Significantly, the Final Rule also delineates a burden shifting approach in which the complainant/plaintiff must prove its prima facie case by demonstrating that a housing practice caused/will cause a discriminatory effect on a group of persons or a community (i.e., perpetuation of segregation) based on a protected class, after which the burden shifts to the respondent/defendant to prove that the discriminatory effect is still lawful due to a “legally sufficient justification.” Under the Final Rule, a legally sufficient justification requires the challenged practice to be “necessary to achieve one or more substantial, legitimate, nondiscriminatory interests” of the respondent or defendant. The justification must also be supported by evidence and not hypothetical or speculative. If the respondent/defendant does meet such a burden, pursuant to the Final Rule, the complainant/plaintiff may still win its case by showing that the substantial, legitimate, nondiscriminatory interests could be served by another practice that has a less discriminatory effect.

In addition to HUD’s “discriminatory effects” rule, the *Inclusive Communities* case provides a recent precedent for a discriminatory effect/disparate impact claim on the basis of race and ethnicity.¹⁷⁵ In *Inclusive Communities*, the Texas district court granted partial summary judgment for plaintiffs on the basis that they had standing to bring a disparate impact discrimination claim under both the Fair Housing Act and the Equal Protection Clause of the U.S. Constitution. Plaintiff’s case was brought against the Texas Department of Housing and Community Affairs on the grounds that it disproportionately denied federal low income housing tax credits for non-elders housing in neighborhoods that were predominantly white while approving allocations in minority group concentrated areas. The court found that statistical evidence as well as statements by public officials raised an inference of discrimination sufficient for the plaintiff to meet its prima facie case and that defendants failed to establish beyond genuine dispute that its actions furthered a compelling government interest and could not have met its obligations under the tax code through less discriminatory means.¹⁷⁶ Subsequently, the court ordered the defendant to revise its Qualified Allocation Plan to account for developments in low poverty areas with higher incomes and performing schools while also improving revitalization criteria for projects in low income areas.

Despite the significance of the *Inclusive Communities*, it is important to note that it addresses state allocation for affordable housing development and not a critical underlying or intervening impediment to such development-- local zoning. It should also be noted that with respect to zoning, in a recent permutation of one of the seminal fair housing disparate impact cases (“*Arlington Heights*”), the Illinois district court took a narrow approach in a third Arlington Heights case decades later.¹⁷⁷ The court held that because plaintiffs could not demonstrate that the village’s zoning *policies*, rather than its denial of a zoning application, had a discriminatory

¹⁷⁴ 78 Fed. Reg. 11460 (Feb. 15, 2013).

¹⁷⁵ *The Inclusive Communities Project, Inc. v. Texas Dept. of Housing and Community Affairs*, 749 F. Supp.2d 486 (N.D. Tex. 2010).

¹⁷⁶ *Id.* at 502-503.

¹⁷⁷ *Nikolich v. Village of Arlington Heights*, 2012 WL 2359313 (N.D. Ill.).

impact on persons with disabilities, their disparate impact claim failed.¹⁷⁸ Therefore, recent legal precedent for challenging local zoning decisions under federal law appears to be limited.

Although the aforesaid HUD Discriminatory Effects final rule significantly adds a new paragraph to the HUD regulations implementing the Fair Housing Act that prohibits “Enacting or implementing land-use rules, ordinances, policies, or procedures that restrict or deny housing opportunities or otherwise make unavailable or deny dwellings,”¹⁷⁹ it is not clear to what extent this prohibition would address individual land use decisions.

In Massachusetts, the U.S. District Court previously addressed zoning discrimination under the Fair Housing Act in the disability context in *South Middlesex Opportunity Council v. Framingham* discussed in further detail in section 5 below.¹⁸⁰ One of the court’s notable findings was that Section 3608 of the Fair Housing Act, which imposes the duty to “affirmatively further fair housing,” does not give rise to a private cause of action, and therefore the court dismissed plaintiffs’ section 3608 claim against the Town of Framingham.¹⁸¹ The judge stated: “I find that even if certain other provisions of the FHA confer individual rights, § 3608 does not. The Supreme Court in *Gonzaga* stated that “where the text and structure of a statute provide no indication that Congress intends to create new individual rights,” the statute affords no basis for a private suit (citing *Gonzaga*, 536 U.S. at 286). After reviewing the structure of the FHA, I conclude that Congress did not intend to confer an individual right pursuant to § 3608.”¹⁸²

Although the duty to affirmatively further fair housing may not be privately enforceable, alternative legal paths have been explored. For example, in the 2009 case against Westchester County,¹⁸³ violation of the False Claims Act was the winning cause of action. The U.S. District Court for the Southern District of New York denied defendant’s motion for summary judgment, finding that Westchester County violated the False Claims Act by knowingly making false certifications to affirmatively further fair housing when its Analyses of Impediments to Fair Housing Choice did not identify impediments on the basis of race.

Recent developments in judicial application of state law may also help to fill the current gap in federal protections with respect to local zoning. In *Lopez v. Commonwealth*, the Massachusetts Supreme Judicial Court held that an interference claim under Massachusetts General Laws Chapter 151B is not limited to retaliation. Although an employment case, *Lopez* established that discriminatory intent was not necessary for a disparate impact claim, which may have laid the foundation for fair housing litigation in Massachusetts based on an interference-disparate impact

¹⁷⁸ *Id.* (compare to *Village of Arlington Heights v. Metropolitan*, 429 U.S. 252 (1977) (“Arlington Heights I”) and *Metropolitan Housing Development Corp. v. Village of Arlington Heights*, 558 F.2d 1283 (7th Cir. 1977) (“Arlington Heights II”) race discrimination cases).

¹⁷⁹ 24 CFR § 100.70(d)(5).

¹⁸⁰ 2008 WL 4595369 (D. Mass. 2008).

¹⁸¹ *Id.* at 16.

¹⁸² *Id.* at 17 (citing *Gonzaga University v. Doe*, 536 U.S. 273, 285, 286 (2002) and noting that interpreted broadly, §3608 “speaks to administrative objectives for the benefit of parties seeking housing, and, as the Supreme Court made clear in *Gonzaga*, such benefits do not necessarily translate into enforceable individual rights... In the years after *Langlois* and *Wallace* were handed down, courts have interpreted *Gonzaga*... as [not only applying to] statutes passed pursuant to Congress’s spending power”).

¹⁸³ *U.S. ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County*, 668 F. Supp.2d 548 (S.D.N.Y. 2009).

claim. In *Lopez*, the court found that defendant utilized practices or criteria knowing that they were not reasonably related to plaintiff's performance and that they had a significant disparate impact on a protected class.¹⁸⁴

Legal action in Massachusetts may also benefit from prior litigation in other states such as New Jersey that address the harms and malfeasance of local exclusionary zoning per se, rather than indirectly based on a statistical impact on a particular protected class. The exclusion of multi-family housing not only has the effect of excluding lower income families with children but also other protected classes of persons that are disproportionately low-income such as racial and ethnic minority groups. Litigating on behalf of such persons under civil rights laws can be difficult, particularly when based upon a disparate impact claim that typically requires a significant statistical impact.¹⁸⁵ However, there is legal precedent for evaluating zoning practices under a non-civil rights statute theory.¹⁸⁶

Notably, in *Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel*, the township's system of land use regulation was challenged as unlawfully exclusionary of low-income families.¹⁸⁷ The decision relied on New Jersey Constitution, which states "All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness." The court held that "It is required that, affirmatively, a zoning regulation, like any police power enactment, must promote public health, safety, morals or the general welfare. (The last term seems broad enough to encompass the others.) Conversely, a zoning enactment which is contrary to the general welfare is invalid."¹⁸⁸ The court also affirmed that "... it is fundamental and not to be forgotten that the

¹⁸⁴ (SJC-11013, 2012) (interpreting Section 4, Paragraph 4A of M.G.L. c. 151B, which makes it unlawful for "any person to coerce, intimidate, threaten, or interfere with another person in the exercise or enjoyment of any such right granted or protected by [M.G.L. c. 151B]").

¹⁸⁵ Civil rights claims challenging zoning and land use decisions have been brought in other states, e.g., *Huntington Branch, NAACP v. Town of Huntington*, 844 F.2d 926, 940 (2d Cir.), *aff'd per curiam*, 488 U.S. 15 (1988) (municipal justifications for restricting multi-family zoning to a minority group urban renewal area based on concerns such as traffic and safety were not sufficient, bona fide and legitimate justifications to rebut a prima facie case of racial disparate impact), *but see e.g., Arlington Heights II* at 1290 (requiring some showing of discriminatory intent); *Langlois v. Abington Housing Authority*, 207 F.3d 43, 51 (1 Cir. 2000) (non-zoning case that highlights limits of disparate impact claims independent of obligation to affirmatively further fair housing, discussed on remand at 234 F.Supp.2d 33, 73 (D. Mass. 2002)); *Buckeye Community Hope Foundation v. Cuyahoga*, 263 F.3d 627, 641 (6 Cir. 2001) (denied summary judgment, finding that a jury could conclude that the town gave effect to public opposition to a low-income development that was "premised on fears that the large influx of children would change the character of the neighborhood" and that "anti-family bias runs contrary to the clear dictates of the Fair Housing Act), *but see e.g., Easthampton Center v. Township of Easthampton*, 155 F.Supp.2d 102, 120 (D.N.J. 2001) (holding that ordinances that rezoned or downzoned properties within the township did not deny or make housing unavailable on the basis of familial status under the Fair Housing Act).

¹⁸⁶ *See also, e.g., National Land and Investment Co. v. Kohn*, 419 Pa. 504 (1965), *Molino v. Mayor and Council of the Borough of Glassboro*, 116 N.J. Super. 195 (1971), *Board of Ed. of Black Horse Pike Regional School Dist. v. Gloucester TP*, 127 N.J. Super. 97 (1974), *U.S. v. City of Black Jack*, 508 F.2d 1179 (8 Cir. 1974), *Avalon Bay Communities, Inc. v. Town of Orange*, 2000 WL 226374 (Conn. Super. 2000).

¹⁸⁷ 67 N.J. 151, 336 A.2d 713 (1975).

¹⁸⁸ *Id.* (the court also noted that such requirements were included in the zoning enabling act language, although its "inclusion therein really adds little; the same requirement would exist even if they were omitted)."

zoning power is a police power of the state and the local authority is acting only as a delegate of that power and is restricted in the same manner as is the state.”¹⁸⁹

The Constitution of the Commonwealth of Massachusetts contains very similar language to that of New Jersey. Although a municipality in formulating a counterargument may adduce the “Home Rule” Amendment to the Massachusetts Constitution, by the plain terms of the Amendment itself, the powers of a local government conferred by said amendment *cannot be inconsistent with the Constitution or laws enacted by the general court*.¹⁹⁰ A legal challenge might focus on the extent to which municipalities that have a pattern of denying family low-income housing developments and/or imposing limiting conditions (e.g., relative to bedroom distribution, age restrictions, income levels below 80% AMI, local residency preferences) that are *ultra vires* of its zoning authority under Chapter 40B;¹⁹¹ such action is inconsistent with the constitutional principle of general welfare *and* is inconsistent and interferential with state legislative action to effectuate general welfare by addressing regional housing needs.¹⁹²

Partner Actions:

- HUD enforcement of its final Discriminatory Effects rule may significantly reshape the fair housing landscape, particularly in frontiers with less legal precedent such as restrictive zoning and land use relative to families with children (i.e., who are impacted by local zoning decisions that favor age-restrictions or fewer bedrooms) and persons with disabilities (outside of the group home context).
- The DOJ and the Massachusetts Office of the Attorney General (“AGO”) can also play an important role in initiating enforcement actions and providing opinions regarding local zoning decisions that conflict with federal or state statutes or constitutional principles.
- As recommended in comments to the Draft AI, the AGO, MCAD, and/or other third party such as the Fair Housing Center of Greater Boston should engage in an independent review of local zoning changes to actively guides municipalities away from exclusionary zoning, as well as take appropriate enforcement action.
- Other interested groups, such as the legal community, developers, and housing partnerships, can provide a needed voice for inclusive communities.

¹⁸⁹ *Id.* at 177.

¹⁹⁰ Article LXXXIX, Sec. 6 (“Any city or town may, by the adoption, amendment, or repeal of local ordinances or by-laws, exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court in conformity with powers reserved to the general court by section eight, and which is not denied, either expressly or by clear implication, to the city or town by its charter. This section shall apply to every city and town, whether or not it has adopted a charter pursuant to section three”).

¹⁹¹ *Amesbury v. Attitash Views*, 457 Mass. 748, 757, 933 N.E.2d 74, 82 (2010).

¹⁹² See e.g., *Hanover v. Housing Appeals Committee*, 363 Mass. 339, 294 N.E.2d 393 (1973) (legislative action through M.G.L. c. 40B to override local zoning power in order to meet regional housing need for low income housing deemed constitutional ; note also that dictum cites to *Girsh Appeal*, 437 Pa. 237, 241, 263 A.2d 395, 397 (1970), which found that use of local police power in enacting zoning ordinance that only provided for single-family residences, resulting in a denial of building permits for a developer of apartments, was not reasonable in violation of U.S. Constitution substantive due process rights).

5. NIMBYISM, Local Actions, and Perceptions of Open Communities: NIMBY attitudes, local practices, and preferences impede the development or perception of open and welcoming communities.

Local actions, whether or not they are ultimately determined to be unlawful by an adjudicatory agency or court, may send subtle and not so subtle messages that discourage persons belonging to protected classes from moving into the community.

In the disability context, a Massachusetts court did find a local action to be unlawful in the *South Middlesex Opportunity Council v. Town of Framingham* case in which the court denied summary judgment in favor of the plaintiffs.¹⁹³ The court found that defendants' actions, as raised by the plaintiffs, regarding a permit application for a residential substance abuse treatment "could lead a reasonable jury to conclude that the Planning Board members actively and intentionally interfered with SMOC's rights to neutral and nondiscriminatory treatment by Town officials."¹⁹⁴ Plaintiffs presented evidence that the Planning Board members expanded the scope of the review process beyond that permitted by the zoning bylaw amendment as well as the Dover Amendment.¹⁹⁵ Plaintiffs also provided evidence of statements by local officials such as that "[t]he whole issue here is the context of this project in the neighborhood," as well as information requests, including a fiscal impact assessment, beyond what would have been requested of similarly situated applicants, to demonstrate discriminatory intent.¹⁹⁶

Although not yet the subject of impactful litigation such as the SMOC case, NIMBYISM towards housing for families with children is commonly acknowledged by the affordable housing world and evidenced through local opposition to Chapter 40B projects and the nature of many 40B projects that are locally supported. In particular, multi-family rental housing has been less palatable than housing that is age-restricted, 1-2 bedroom, single family and/or ownership in tenure. A key explanation often put forward by communities is that housing that would accommodate families with school age children would impose costs that would negatively impact the local school system. However, such claims have not been proven in the Chapter 40B context, nor has there been a need to distribute Massachusetts General Laws Chapter 40S, other than to a very limited number of cities and towns, that have permitted affordable housing within special zoning districts created under Chapter 40R.¹⁹⁷

This suggests that the "school cost" explanation may be at least a partial pretext for other concerns and prompt the question(s): is this bias against low-income children and teenagers based on preconceptions of how they would change the atmosphere or performance of the school? Bias against racial/ethnic minority groups based on racialized perceptions of subsidized housing and criminal activity? All of the above? Although the answer may not be known, or provable in a given community, a reasonable person could certainly speculate on the answers, or

¹⁹³ 752 F.Supp.2d 85 (D. Mass. 2010).

¹⁹⁴ Id. at 105.

¹⁹⁵ Id. at 100.

¹⁹⁶ Id. at 101.

¹⁹⁷ Chapter 40S is a source of state funding for cities and towns that already receive bonus payments under Chapter 40R to create overlay zoning districts and permit housing (minimum of 20%) within the districts, in response to concerns about the costs of educating school-age children who move into such districts.

at the very least be dissuaded from moving to those communities regardless of whether they are seeking multi-family housing or not.

Furthermore, although many community leaders do not share socially biased views, ratifying them through local action may produce the same result. For example, in 2011, a local newspaper reported resident reactions at a local hearing on a Chapter 40B mixed-income development. The reactions included statements that the development would not only overload the schools, but would also cause crime, reduce property values, and turn the neighborhood into a “ghetto.” But in fact, there is not reliable, widely recognized research to support these biases; rather, there is data to the contrary. For example, a study on affordable housing developments in Mount Laurel New Jersey, mandated by the state courts in response to local restrictive zoning, found no negative effects, including with respect to crime, property values, or taxes.¹⁹⁸

Local “messaging,” including statements such as those cited above, as well as comments that stereotype or negatively regard persons with mental disabilities, may influence persons who live outside of, and would be underrepresented in, a community. Statements could also include language in project permitting decisions regarding who preferred residents are. Historically, preferred residents have been those that already reside in the community. Paradoxically, such statements often occur in the Chapter 40B context after the housing was objected to by the community or zoning board of appeals in the first place. Although some local preferences may in fact be justifiable based on the community’s needs, DHCD does not approve local preferences for which there is not a legitimate nexus to local need, such as preferences for relatives of local residents, former residents, and persons who have been residents for a certain period of time.

In non-diverse communities, *perceptions* that may derive from local action *or* inaction in welcoming new groups to the community such as racial/ethnic minority groups and persons with mental health disabilities can be quite pervasive, whether intended by the community or not. For example, the Civil Rights Project at Harvard University found that over half of African Americans and over 40 percent of Latinos said that people of their respective groups believe they “miss out on good housing very often” because they cannot afford it, and 85% of African Americans and 69% of Latinos said their respective groups “miss out on good housing at least some of the time” because of “fear that they will not be welcome in a particular community.”¹⁹⁹

The Massachusetts Metropolitan Council for Educational Opportunity (“METCO”) program may also serve as a further window into the intersection of perception and experience in suburban communities, particularly with respect to children. METCO is a state assisted school-choice desegregation program for students who live in Boston or Springfield to participate in generally affluent communities with high performing schools. The Pioneer Institute for Public Policy Research recently produced a report that examined both achievements and experiences in the METCO program, although the report acknowledged that its findings may be impacted by the

¹⁹⁸ Douglas S. Massey, “Lessons from Mount Laurel: The Benefits of Affordable Housing for All Concerned,” Poverty & Race Research Action Council, Vol. 21. No. 3 (May/June 2012).

¹⁹⁹ See supra note 11.

self-selection bias of participants in this voluntary program.²⁰⁰ Nevertheless, the achievements were substantial, as METCO students graduated at far higher rates than their counterparts in Boston and Springfield, and on average outperformed them in MCAS scores.²⁰¹

The social experiences also tended to be positive overall for METCO participants. A Harvard survey of METCO families in 1997 revealed that approximately 85% of students reported an “excellent” experience with the program.²⁰² However, there were important gender differences in student experiences: while boys participating in METCO tended to feel “embraced” by their peers, girls participating in METCO often reported feeling of “excluded and marginalized” from peer groups.²⁰³ The Pioneer Institute has noted that student experiences with “stereotypes and cultural insensitivities” indicates more supports such as training for teachers, facilitated discussion groups for students, and hiring more teachers of color, would be beneficial.²⁰⁴

Subsidized Housing:

Evaluation of local preference:

With MHP, DHCD engaged a consultant, John Ryan d/b/a Development Cycles, to examine the use and impact of local preference policies in Massachusetts in connection with access to subsidized/affordable housing. The final report is entitled “Local Preference: Assessment of Use and Impact on Fair Housing within Massachusetts’ Affordable Housing Developments” (December 2010). The study primarily examined the level of participation by racial and ethnic minority group households through a sample of state-assisted affordable housing developments in comparison to the racial and ethnic makeup of the community and region of such developments. Although there were study limitations, including that there was not sufficient variability of local and non-local preference projects within the total sampled projects,²⁰⁵ the report found that minority group participation was strong overall. Specific findings contained within the report include the following:

- ❖ At least three-quarters of the homeownership projects sampled had minority participation in the lottery (selection) and buying process that was higher than the concentration of low-income minority homeowners in the community and region where the development was located.
- ❖ These higher rates of minority participation extended to local preference lotteries, general lotteries, “selected” participants, as well as to initial buyers, although minority percentages were generally higher in General Lotteries than in Local Preference Lotteries, particularly in communities with lower minority homeownership.

²⁰⁰ Eaton, Susan and Gina Chirichigno, “METCO Merits More: The History and Status of METCO,” Pioneer Institute in collaboration with the Houston Institute for Race and Justice at Harvard Law School, White Paper, No. 74 (June 2011).

²⁰¹ Id.

²⁰² Id. (citing Gary Orfield et al., “City-Suburban Desegregation: Parent and Student Perspectives in Metropolitan Boston,” The Civil Rights Project at Harvard University (1997)).

²⁰³ Id. (citing Simone Ispa-Landa, “Race, Reputation, and Community Resources: A Gendered Analysis of Racial Integration in Schools and Society,” PhD diss., Harvard University (2011)).

²⁰⁴ Id.

²⁰⁵ 90% of sampled homeownership projects and 20% of sampled rental projects included a local preference provision.

- ❖ With respect to the 188 rental developments sampled, 47 percent of the initial tenants were minority households (56 percent in urban projects and 16 percent in non-urban projects).
- ❖ For nearly three-quarters of all sampled rental projects, the minority participation exceeds the baseline for the community and region.
- ❖ For those under-represented projects with a very low percentage of initial minority households ($\leq 5\%$), nearly 75 percent are elders/age-restricted developments and two-thirds are located in suburban communities where less than 10 percent of its low-income renters are minorities.
- ❖ It is important to note that a number of other factors may have affected the minority group participation results, both overall and between individual projects, including varying income eligibility-thresholds within and between rental projects.

While these results are generally positive, it is critical to recognize that they are likely in large part due to state policies promoting the balancing of local preference pools with minority group applicants when such pools would otherwise reflect the limited racial/ethnic diversity of the community.

It is also important to note that local preferences in affordable housing development are not sought by DHCD or the subsidizing agencies, instead they are sought by communities; as such, the study does not speak (nor is it intended to speak) to community motivations for local residency preferences.

Of significance, in 2010 the Massachusetts Supreme Judicial Court ruling in *Zoning Bd. of Appeals of Amesbury v. Housing Appeals Comm.* indicates that matters such as resident selection, local preference, etc. are ultra vires (beyond the powers of) of zoning board of appeals authority and instead are to be determined by the Subsidizing Agency.²⁰⁶ The court stated:

The clear import of this provision, defining as it does the board's power in terms of that belonging to a "local board," is that the board, when acting on an application for a comprehensive permit under the act, has the same scope of authority as "any town or city board of survey, board of health, board of subdivision control appeals, planning board, building inspector or the officer or board having supervision of the construction of buildings or the power of enforcing municipal building laws, or city council or board of selectmen... the power of the board derives from, and is generally no greater than, that collectively possessed by these other bodies... The following matters shall normally be within the province of the subsidizing agency and the [HAC] will not hear evidence concerning them except for good cause: (a) Fundability of the project by a subsidizing agency...(b) Marketability of the project...(c) The applicant's ability to finance, construct, or manage the project...(d) The financial feasibility of the project...(e) Tenant selection procedures."²⁰⁷

DHCD Action Steps

- Continue to examine use and potential effects of local residency preferences and other practices that may be perceived as exclusionary, including "NIMBY" type messaging.

²⁰⁶ 457 Mass. 748, 758 (2010).

²⁰⁷ Id. at 755, 764.

For example, DHCD's Affirmative Fair Housing Marketing Plan and Resident Selection guidelines prohibit advertising of local preference so as not discourage non-local potential applicants, particularly those that are more likely to be members of a protected class (i.e., racial/ethnic minority groups) than local applicants.

- Continue to evaluate compliance and consistency with state subsidy program requirements and policies, such as generally restricting local preference to initial occupancy only.
- DHCD will also continue to consider the potential fair housing effects of local preferences and re-evaluate regulations and guidelines that address such preferences in the state-aided public housing programs. However, in the public housing context, local preference is statutorily mandated within a general non-discrimination frame of reference. Massachusetts General Laws Chapter 121B § 32(e) states that "There shall be no discrimination or segregation; provided, that if the number of qualified applicants for dwelling accommodations exceed the dwelling units available, preference shall be given to inhabitants of the city or town in which the project is located...For all purposes of this chapter no person shall, because of race, color, creed, religion, blindness or physical handicap, be subjected to any discrimination or segregation."

Although the State-Aided Public Housing regulations provide for an affirmative selection priority to ensure racial/ethnic minority groups²⁰⁸ are not disproportionately impeded from accessing predominantly white communities, such measures should be re-evaluated in the current civil rights context (i.e., current civil rights law as well as state policies). Governor Patrick's proposed public housing reform and regionalization will also provide an avenue for fair housing access to public housing within a regionally based context.

Partner Actions

- MAPC, as part of its Sustainable Communities grant, provided funds and assistance for the development of a "Fair Housing Toolkit," now available at <http://www.mapc.org/fair-housing-toolkit>, which offers practical fair housing guidance to a primary audience of municipalities and housing developers. The toolkit provide examples of practices to avoid due to their potential disparate impact on fair housing protected classes, as well as practices to affirmatively further fair housing, including by attracting protected classes under-represented in a community. The MAPC grant also provided for the design of future trainings that can be led by MAPC and/or its partners and will include a section on relevant resources that will assist developers and municipalities in furthering fair housing principles.
- Efforts by community based organizations to attract newcomers, including higher income households in an effort to reduce concentrations of poverty, are also needed.
- Further research on housing preferences and barriers perceived by households of color and other protected classes would help expand (e.g., upon the Harvard Civil Rights Project study) current understanding of factors that influence housing choice.²⁰⁹

²⁰⁸ Note: persons with disabilities receive a selection priority for 13.5% of units under the Chapter 667 state-aided public housing program.

²⁰⁹ See supra note 11. Additionally, as suggested by one commenter, research questions might include: "where are young households of color moving and why? What are the factors in their decisions? Where would they like to

6. Coordination of Policy-Making and Public Investments: There is not enough coordinated policy-making and/or investment amongst various state and federal agencies to leverage meaningful access to opportunity in communities across the Commonwealth.

DHCD's Affirmative Fair Housing and Civil Rights Policy proposed fair housing evaluation criteria for granting of DHCD discretionary funds to communities in an effort to address local exclusionary practices that obstruct bridging local opportunities to fair housing objectives. Said policy provided a "Fair Housing Evaluation Criteria for Discretionary Grants" which is restated below based on external input and will also be subject to further review. However, as DHCD's sphere of leverage has been insufficient due to the number of communities that do *not* seek DHCD discretionary funding, broader statewide strategies are needed as discussed below.

Fair Housing and Civil Rights Evaluation Criteria for Discretionary Grants: Community Practice for Evaluation

Tier 1

- Zoning/land use bylaws
- Multi-family permitting denials
- Diversity of housing (building) types
- Availability of subsidized family housing (vs. age-restricted housing)

Tier 2

- Application for and use of transportation/ environmental/ community development/other discretionary funds/community services to improve community assets to draw or benefit a diversity of housing types, incomes, and protected classes.
- Use of CDBG and CPA funds to support diverse housing stock
- Participation in regional planning and development activities
- Adoption of "Compact Neighborhoods"
- Fair housing civic engagement/outreach (e.g., fair housing training for community housing and planning employees, outreach to the community, civil rights commission or resource for responding to allegations of local discrimination, etc.)
- Diversity of residents in the municipality
- Efforts to increase compliance with accessibility requirements and to increase Visitability and Universal Design
- Extent to which local housing authorities provide project-based vouchers

Tier 3

- Diversity of subsidized housing for a range of income levels
- Extent of support for affirmative fair housing marketing and outreach efforts
- Diversity of residents in subsidized housing located in the municipality

move? What are their perceptions of their housing choices? How are they uniquely perceived by public and private actors in the housing market?" (Fair Housing Center of Greater Boston comments to the Draft 2013 AI).

- Foregoing or minimizing use of local residency selection preferences
- Existence and implementation of an affordable housing plan and/or comprehensive neighborhood revitalization plan
- Existence of an affordable housing partnership or other entity
- Actions relating to preservation (versus demolition) of subsidized housing
- Other efforts to create an open community (e.g., LEP services, fair housing related counseling, fair housing testing)
- Title VI LEP compliance
- De-leading initiatives

Tier 4

- Discrimination complaints filed

Community Practices for Evaluation by Key Protected Classes

	Race/Nat'l Origin	Familial Status	Disability
-Discrimination complaints filed	X	X	X
-Zoning/land use bylaws	X	X	X
-Multi-family permitting denials	X	X	X
-Diversity of housing (building) types	X	X	X
-Availability of subsidized family housing (vs. age restricted housing)		X	
-Application for and use of transportation/environmental/community development/other discretionary funds/community services to improve community assets to draw or benefit a diversity of housing types, incomes, and protected classes	X	X	X
-Foregoing or minimizing use of local residency selection preferences	X	X	X
-Participation in regional planning/development	X	X	X
-Diversity of subsidized housing for range of income levels and family sizes (applications to subsidizing agencies considered)	X	X	X
-Use of CDBG and CPA funds to support Diverse housing stock	X	X	X
-Adoption of "Compact Neighborhoods"	X	X	X
-Fair housing civic engagement/outreach (FH training for community housing and planning employees; FH outreach to the community; FH commission or resource for allegations of discrimination)	X	X	X
-Diversity of residents in the municipality	X	X	X

-Efforts to increase accessibility, Visitability, and Universal Design (†also benefits other protected classes)			X [†]
-Extent to which LHAs provide project-based vouchers*(FHAP input)	X	X	X
-Diversity of subsidized housing for a range of income levels	X	X	X
-Extent of support for affirmative fair housing marketing and outreach efforts	X	X	X
-Diversity of residents in subsidized housing located in the municipality	X	X	X
-Foregoing or minimizing use of local residency selection preferences	X	X	X
-Other efforts to create an open community (i.e., LEP services; FH related counseling)	X	X	X
-Existence and implementation of an affordable housing plan and/or comprehensive neighborhood revitalization plan	X	X	X
-Existence of an affordable housing partnership or other entity	X	X	X
-Actions relating to preservation (versus demolition) of subsidized housing	X	X	X
-Title VI LEP compliance (†also benefits other classes of persons not covered by Title VI)	X [†]		
-De-leading initiatives		X	

Despite both the pragmatic and symbolic import of overlaying fair housing considerations on DHCD’s discretionary funding decisions, its effectiveness in improving “access to opportunity” is commensurate with community eligibility and/or interest in such funding.

DHCD’s principal source of community funding is the HUD funded Community Development Block Grant (CDBG) program. DHCD administers this competitive grant program to municipalities with populations under 50,000 that do not receive CDBG funds directly from HUD. Communities may only seek funding from DHCD for projects or activities that meet one of the three national objectives of the CDBG program: (a) benefit low- and moderate-income persons; (b) prevent or eliminate conditions of slums or blight; or (c) address an urgent or critical community need. The majority of the funding (“CDF I” and “Mini-Entitlement”) is to be allocated to communities with high statistical need. Although this program helps to improve and revitalize “lower opportunity” communities, many “higher opportunity” communities are less likely to apply for (or receive) CDBG funding because their higher level of community resources and higher-income populations.

The state MassWorks program, administered by EOHED in collaboration with the state Department of Transportation and Executive Office for Administration and Finance (“ANF”), is responsive to this issue in that it provides infrastructure funding to communities to support a broader range of goals. An important aspect of the program is that it supports communities that provide or will provide for economic development and job creation, housing development (market rate and affordable) at a minimum density and as-of-right, and transit oriented development. However, as discussed below, further action from other agencies and partners is needed to create incentives and reward community actions that broaden fair housing choice and to discourage community actions that impede fair housing choice.

DHCD Action Steps

- Ensure discretionary grant approval criteria are consistent with state initiatives to increase multifamily housing and address local planning/zoning that may disparately impact fair housing protected classes.

DHCD will work to ensure that approval criteria are consistent with proposed policies such as the above-referenced Land Use Partnership Act (LUPA), which does not credit/certify local planning for new housing units that is restrictive, through zoning or other means, as to number of bedrooms or age of residents. Furthermore, DHCD is currently revising its Chapter 40B/Comprehensive Permit and Affirmative Fair Housing Marketing Plan and resident selection guidelines to further mitigate the potential disparate impact that local zoning policies or practices may have on families with children and other protected classes.

DHCD has also developed a new Compact Neighborhoods Program Policy²¹⁰ to incentivize municipal cooperation and proactive planning for multifamily housing development. Under the program, municipalities that are certified by DHCD as creating Compact Neighborhoods will receive a preference for discretionary funding by state agency programs, such as the MassWorks infrastructure program. To participate in this program, a municipality must meet certain requirements such as identifying an “as-of-right” base or overlay zoning district (“Compact Neighborhood”) with a minimum density and allowing for a minimum number of Future Zoned Units. DHCD expects municipalities, in drafting zoning ordinances, to promote the development of housing across a range of incomes and appropriate for diverse populations, including families with children, persons with disabilities, and elders.

However, as noted above, it is important to understand the limitations of singular state agency (or Secretariat) action in reducing impediments to fair housing choice in communities that are not seeking infrastructure funding, or that in fact do not want additional infrastructure that may invite further development. The state should therefore consider what leveraging of state funding to communities *would most likely* advance fair housing choice and statewide equity.

²¹⁰ See <http://www.mass.gov/hed/community/planning/compact-neighborhoods.html> .

Inter-agency coordination of funding to communities at the federal level would also support state objectives and success in adopting similar practices. The Obama administration has endorsed and begun to implement such coordination through its Sustainable Communities grants. Sustainable Communities represents collaboration between HUD, the Department of Transportation, and the Environmental Protection Agency. The collaboration was formalized by a partnership agreement in which the three agencies agreed to align HUD, DOT, and EPA programs as well as “enhance integrated planning and investment; provide a vision for sustainable growth; redefine housing affordability and make it transparent; redevelop underutilized sites; develop livability measures and tools; and undertake joint research, data collection, and outreach.”²¹¹ Massachusetts and other states that seek to achieve similar objectives would benefit from further explanation of federal methods for aligning efforts, the extent to which the partnerships will extend beyond Sustainable Communities, and the manner in which potentially non-coextensive objectives will be balanced (i.e., where sustainable and transportation-based development does not address access to quality schools and other community-based opportunities).

Partner Actions

- As mentioned above in section 2, the Governor has directed the Assistant Secretary for Access and Opportunity to:

(1) Convene an internal working group, post completion of the Analysis of Impediments, to review the AI and to identify and make policy recommendations to mitigate state public policies that function as impediments to fair housing choice, and

(2) Convene a second working group, which would consist of state agency representatives, representatives from Action for Regional Equity and other community-based stakeholders to engage a broader effort to promote equity across state policies and programs.

- *The working groups should examine the feasibility and benefits of a coordinated scoring system, drawing from DHCD’s Community Practices for Evaluation relative to discretionary grants, to be utilized by the relevant state agencies. Community level considerations such as land size, population size, population diversity, current range of housing types and levels of affordability, modes of access to employment, infrastructure, environmental protection, etc. may be necessary to determine suitable local contributions towards regional and statewide equity goals. However, certain scoring or evaluation criteria should apply regardless of individual community characteristics, such as the exclusionary zoning practices and efforts towards community diversity. Although a low minority group population, for example, should not by itself trigger withholding of discretionary funds, it is a strong indicator that the community needs to adopt and implement responsive strategies, such as more aggressive affirmative fair marketing and*

²¹¹ See <http://www.epa.gov/smartgrowth/partnership/index.html> .

support housing types and amenities/services that will attract non-local populations from more diverse areas of the applicable region and state.

Massachusetts Executive Order 215, signed by Governor King on March 15, 1982, is an example of intervention across state agencies to achieve a state equity based agenda. Said order established that state agencies were to withhold development-related²¹² discretionary funds to cities or towns determined to be unreasonably restrictive of new housing growth. Although Executive Order 215 has not been revoked, it has not been fully implemented since the Governor Dukakis administration.

Therefore, the working groups should consider Executive Order 215 as a potential model, adjusting for current administrative and economic conditions. In developing implementation strategies, the working groups should specifically examine: 1) the appropriate threshold(s) for withholding or conditioning discretionary funds; 2) circumstances under which a community's responsive strategy, or implementation of its strategy, would be insufficient and require further action; and 3) circumstances under which discretionary funds should be restored.

The working groups should also consider through a clear equity lens other public amenities and economic factors that affect not only housing options in impacted and non-impacted communities, but also the livelihood and quality of life of people who live in such communities. Consideration should include the extent to which jobs, economic development, educational spending,²¹³ and MBTA/regional transit projects are, and could be, equitably distributed and inclusive of protected classes. Additionally, it is important that factors that affect community connectivity and enrichment for persons with disabilities (e.g., accessible civic, social, educational and employment opportunities, healthy food markets, transportation, and safe public rights of way), are also considered.

It is anticipated that the conclusions reached by the working groups will inform new executive directives and/or memoranda of understanding amongst the relevant state agencies.

- Input from regional agencies that are familiar with community conditions through their contacts with municipalities and that are dedicated to integrating equity and fair housing goals could strongly inform and complement state policy objectives. MAPC, for example, through its State of Equity Report and current projects such as a Regional Housing Plan and regional Fair Housing Equity Assessment, is poised to provide such input and serve as an engine for municipal support.

²¹² Including funding for economic development, open space and recreation, “urban systems” transportation improvements, conservation land, elderly housing, sewer collection and water systems, parking facilities, convention centers, federal block grant funds administered by the state (note: today federal HOME funds are also administered by the state), and state review of federal grant applications for development assistance. EO 215 was not applied to ongoing grants or existing project commitments.

²¹³ Including increase of METCO spending, and other programs that would increase educational opportunities for protected classes (one commenter, e.g., suggested expansion of the 40S program beyond the 40R context).

- Local communities are also critical partners in improving regional equity, including by participating in regional planning efforts and contributing to the implementation of regional plans such as those developed by the regional planning agencies. This should include use of CPA and other funding sources to contribute to preserving and creating a range of housing opportunities, expanding accessibility, and attracting and reducing the under-representation of protected classes in suburban communities. The creation of a fair housing toolkit as discussed helps to clarify the type of fair housing and equity considerations communities should adopt when participating in regional activities and seeking regional supports (e.g., planning, technical assistance, etc.).

7. Development of Affordable Rental Housing for Families with Children: There is inadequate development of affordable rental housing for families with children, particularly outside of urban areas.

Adequate housing for families with children is largely an issue of affordability, as housing units with more bedrooms are generally more expensive. *Location* of affordable housing that accommodates families with children, particularly in non-impacted areas, is largely a function of local zoning and/or permitting for family housing as discussed in section 3 above. Even in urban areas, lead paint issues may compromise available housing for children despite landlord obligations under state law.²¹⁴ Other fair housing considerations include the relationship between family size and national origin/immigration, as the average number of persons living in an immigrant household is 2.95 compared to a 2.35 average amongst native households).²¹⁵

Data also shows that three bedroom rental units are in greater demand than other rentals across 71% of the state's housing market, as indicated by lower vacancy rates (below 6%).²¹⁶

Subsidized Housing:

Privately subsidized, state-assisted rental family housing, as well as bedroom distribution, varies by location (urban vs. non-urban), which in turn relates to type of development (new production vs. preservation) as outlined below for projects beginning in FY 2005:

²¹⁴ M.G.L. c. 111 §§ 197, 199A.

²¹⁵ See infra note 198.

²¹⁶ Source: MHP (citing 2007-2011 ACS data).

<u>Urban</u>	<u>Non-Urban</u>
Total projects: 358	Total projects: 216
Total units: 19,483	Total units: 6,801
Family housing: 65%	Family housing: 46%
Bedroom distribution:	Bedroom distribution:
• 16% <1 bedroom	• 11% <1 bedroom
• 35% 1 bedroom	• 47% 1 bedroom
• 36% 2 bedroom	• 34% 2 bedroom
• 14% 3+ bedrooms	• 8% 3+ bedrooms
New production units: 25%	New production units: 53%
Preservation units: 63%	Preservation units: 37%

Source: MHP compiled data for projects beginning in FY05

For further discussion of housing needs and housing resources for families with children in Massachusetts with respect to subsidized and non-subsidized housing, see the Data Analysis section of this document.

DHCD Action Steps

- In 2012, DHCD specifically carved out a housing development funding priority for family housing production as discussed in section 2 above.
- DHCD continues to evaluate how it may improve housing opportunities for families, primarily families with children, that require larger sized (multiple bedroom) units. For example, DHCD's 2013 QAP and Draft 2014 QAP underscores DHCD's priority for the production of rental units suitable for families. At least 65% of the units in a proposed production project must have two or more bedrooms, and at least 10% of the units must have three bedrooms, with exceptions only applying if efficiency or one-bedroom units are appropriate for the intended residents.
- Furthermore, as stated above, in determining whether a housing development site is appropriate under the state's affordable housing zoning law, M.G.L. c. 40B, DHCD and state subsidizing agencies will take into account whether a municipality is working towards meeting regional housing needs consistent with the purpose of Chapter 40B. This would include efforts to create zoning districts and/or requirements that provide for affordable housing that serves families with children (i.e., for which at least 10% of such housing contains units with 3 or more bedrooms).
- Revised DHCD AFHMP guidelines to incorporate minimum household size requirements to ensure that subsidized units are available to households that need the number of bedrooms in the unit.
- DHCD will institute a policy related to SHI eligibility, to be finalized in FY 2014, to address the imbalance of age-restricted housing versus housing for families with children.

Partner Actions:

DHCD is currently reviewing the following evaluation scheme for sponsors/developer applying for discretionary funding that includes serving a range of family sizes and incomes, as well as other key fair housing considerations:

**Fair Housing and Civil Rights Evaluation Criteria for Discretionary Grants:
Sponsor/Developer Practice for Evaluation**

Tier 1

-Discrimination complaints filed/discriminatory advertising

Tier 2

- Diversity of housing (building) types
- Diversity of subsidized housing for a range of income levels and family sizes (applications to subsidizing agencies considered)
- Extent of affirmative fair housing marketing efforts
- Efforts to increase compliance with accessibility requirements and to increase Visitability and Universal Design
- Other efforts to create or further a diverse community through the proposed housing
- Title VI LEP compliance
- Developer partnerships with non-profits and other agencies to identify and address access barriers relative to opportunity for residents in the proposed housing development location

Sponsor/Developer Practice for Evaluation by Key Protected Classes

	Race/ Nat'l Origin	Familial Status	Disability
-Discrimination complaints filed/ discriminatory advertising	X	X	X
-Diversity of housing (building) types	X	X	X
-Diversity of subsidized housing for range of income levels and family sizes (applications to subsidizing agencies considered)	X	X	X
-Extent of affirmative fair marketing efforts	X	X	X
-Efforts to increase compliance with accessibility requirements and to increase Visitability and Universal Design († also benefits other protected classes)			X [†]
-Other efforts to create or further a diverse community through the proposed housing	X	X	X
-Title VI LEP compliance (also benefits other classes of Persons not covered by Title VI) covered by Title VI)	X [†]		
-Developer partnerships with non-profits and other agencies to identify and address community barriers and needed supports in the proposed housing development location* (*FHAP input)	X	X	X

8. Development with Rental Subsidies for Extremely Low Income Households: There is inadequate funding of units with rental assistance or deep subsidies critical to serving extremely low-income households and persons with disabilities.

The need for more housing with deep subsidies/rental assistance so that poor households do not have to pay more than 30% of their income towards rent is evidenced by the very high number of extremely low-income (earning at or below 30% of the area median income) households on the statewide Section 8 waiting list, which are largely comprised of families with children, persons with disabilities, and racial/ethnic minority groups as depicted below. It is also important to note that persons who are extremely low-income are often recipients of public assistance, including housing subsidies, and as such are protected as a class under the state anti-discrimination law (M.G.L. c. 151B). Moreover, as noted by a FHAP member that provides fair housing testing and enforcement advocacy, discrimination on the basis of income or public assistance reciprocity is often a proxy for racial discrimination motivated by race.

Housing Needs of Families on Section 8 Statewide Waiting List:

Applicant Category	Number
Waiting List Total	57,448
Extremely low income	51,803
Very low income	4,798
Low income	579
Families with children	37,688
Elderly families	2,472
Families with disabilities	17,914
White*	20,493
Black*	12,622
Hispanic, all races	20,636
Asian*	1,168
Other/Unspecified	2,529

Source: DHCD 2008 Annual Plan (from DHCD S8 data)

*Non-Hispanic.

Note: Applicants may specify more than one race;

"Families" includes individuals

Massachusetts has also faced a homelessness crisis in recent years, aggravated by the nationwide recession, which compounds the need for housing that serves the poorest and most vulnerable populations, including those with serious mental illnesses and victims of domestic violence as indicated by the chart below:

Homeless Population	Sheltered		Unsheltered	Total
	Emergency	Transitional		
Number of Families with Children (Family Households)	2,803	718	10	3,531
1. Number of Persons in Families with Children	8,487	1,802	31	10,320
2. Number of Unaccompanied Adults without Children	3,102	2,570	672	6,344
(Add lines Numbered 1 & 2 Total Persons)	11,589	4,372	848	16,664
Part 2: Homeless Subpopulations	Sheltered		Unsheltered	Total
a. Chronically Homeless	1,352		517	1,666
b. Seriously Mentally Ill	2,052		153	2,205
c. Chronic Substance Abuse	3,093		189	3,282
d. Veterans	1,210		58	1,268
e. Persons with HIV/AIDS	152		0	152
f. Victims of Domestic Violence	1,426		13	1,439
g. Unaccompanied Youth (Under 18)	38		30	68

Source: DHCD 2012 Action Plan (2011 Continuum of Care data)

Considering such populations, the *location* of housing development with deep subsidies may require greater consideration of access to services and public transportation rather than the same “access to opportunity” (see section 2 above) lens that might be applied to other populations.

Subsidized Housing:

Privately subsidized, state-assisted rental housing that provides rental assistance to households varies by location (urban vs. non-urban), which in turn relates to type of development (new production vs. preservation), as outlined below for projects beginning in FY 2005:

<u>Urban</u>	<u>Non-Urban</u>
Total projects: 358	Total projects: 216
Total units: 19,483	Total units: 6,801
Rental assistance units: 46%	Rental assistance units: 36%
Preservation units: 63%	Preservation units: 37%
Special needs project units: 12%	Special needs project units: 9%

Source: MHP compiled data for projects beginning in FY05

For further discussion of housing needs and housing resources for extremely low-income households in Massachusetts with respect to subsidized and non-housing housing, see the Data Analysis section of this document.

DHCD Action Steps

- Introduced significant reforms in homelessness prevention and rehousing through a “housing first” strategy. This strategy now more fully integrates supportive services, including for persons with disabilities, in response to the aforementioned Act Relative to Community Housing and Services.
- Targeted new MRVP mobile vouchers to homeless families with disabilities and significantly increased project-based vouchers through the Supportive Housing Initiative (see also section 15 below).
- Provided support for the New Lease initiative discussed below.
- Furthered mixed-finance options to increase rental affordability for very low-income households by leveraging private funds along with public housing, project-based vouchers, and/or other subsidy programs.
- As part of the ongoing effort to end homelessness, DHCD is strongly encouraging developers of tax credit projects to include units for extremely low-income individuals or households. The threshold requirement for all credit projects remains at 10% of total units. However, DHCD is now encouraging sponsors to consider exceeding the threshold requirement. Moreover, in addition to continuing to fund projects with project-based Section 8 assistance, DHCD is making state-funded project-based rental assistance (MRVP) available to these projects for the first time in over 20 years.

Partner Actions

- The newly created New Lease organization, discussed in further detail in section 15 below, will review applications from partner DHCD contracted providers in a region and then send them to participating owner properties for suitability screening and selection.

New Lease will also have a Family Emergency Housing Fund through to support families that have arrearages due to family emergencies and hardships.

- HUD should increase subsidies and continue to allow and expand flexibility in serving homeless and extremely low income families within existing programs.
- Housing and providers should increase efforts, including through universal design, production, and preferences, to expand housing for persons with disabilities and elders that need rental assistance and accessible units in order to transition out of institutions.

9. Fair Housing Awareness and Resources for Testing: Further awareness of state fair housing laws, particularly amongst small landlords and larger companies that operate nationally, and resources for fair housing testing are needed.

Members of the Fair Housing Advisory Panel identified that further fair housing education is needed, particularly for small landlords and larger companies that operate nationally that may not be as aware of state fair housing laws. The fair housing education and outreach arena is primarily covered by various federally funded fair housing organizations, including the Massachusetts Fair Housing Center and the Fair Housing Center of Greater Boston (“FHCGB”), although various governmental and non-governmental agencies also provide important fair housing outreach and trainings.

It is unclear whether the extensive fair housing organizational work in Massachusetts directly relates to the number of fair housing complaints filed with enforcement agencies.²¹⁷ It is important to note that while enforcement agency caseloads may not appear high, numerous fair housing cases are settled or resolved through advocacy outside of administrative enforcement, including through the HUD funded programs such as the Fair Housing Initiative Programs (FHIP). Such organizations include the FHCGB, the Massachusetts Fair Housing Center, HAP, Inc., and Community Legal Aid in Worcester. Additional organizations such as Greater Boston Legal Services, American Civil Liberties Union, Gay & Lesbian Advocates & Defenders, the Disability Law Center of Massachusetts, the Lawyers’ Committee for Civil Rights, and other legal services, local human/civil rights commissions, and non-profit organizations such as MBHP work to resolve fair housing matters.

It is also important to note that testing can be critical not only for successfully enforcing complaints, as it is can be difficult to ultimately prove that a housing provider or agent’s actions relating to sales or rentals were based at least in part on a discriminatory motive;²¹⁸ it is also vital for increasing awareness in a community of the discriminatory practices that are occurring and for targeting further fair housing education and outreach.

²¹⁷ Primarily through the Massachusetts Commission Against Discrimination, although additional complaints are enforced through the Massachusetts Office of the Attorney General, as well as through HUD (i.e., where MCAD does not have overlapping jurisdiction or it is a HUD initiated complaint), and through the Boston Fair Housing Commission and Cambridge Human Rights Commission.

²¹⁸ Not required for all cases, including reasonable accommodation/modification, design and construction, and disparate impact cases.

DHCD and State Action Steps

Ongoing Action Steps:

- DHCD continually engages in information and outreach through materials, conferences, and trainings, including for local housing authorities. The proposed public housing reform discussed in section 13 below would also improve consistency amongst, and oversight of, local housing authorities.
- MassHousing also continues to provide TAP trainings for rental management companies on fair housing topics, including reasonable accommodations and other issues and services relating to persons with disabilities, as well as language access planning.
- The MCAD and the Office of the Attorney General continue to enhance education and outreach efforts, including through various presentations and participation in fair housing conferences.
- The Massachusetts Commission Against Discrimination has also increased fair housing in a variety of ways, including through opening an office in New Bedford (an area that has been underserved), testing, outreach, and increased policy work relating to affirmative fair housing such as municipal AIs. The FHCGB also provides municipalities assistance with developing AIs.

Partner Actions

- The state funded regional Housing Consumer Education Centers through the Regional Housing Network of Massachusetts continue to provide fair housing information for housing consumers as well as landlords (see also the website at <http://www.masshousinginfo.org>). Various regional non-profit housing agencies also provide fair housing training. The Metropolitan Boston Housing Partnership (“MBHP”) for example provides extensive trainings, including for small landlords participating in the Section 8 housing choice voucher program. MBHP does an average of 50-60 fair housing workshops a years for first-time homebuyer, small property owners, tenants, human service providers, property management, advocates, attorneys and government agencies.
- The FHCGB and Massachusetts Fair Housing Center continue to provide fair housing training and outreach as recipients of FHIP funding. The FHCGB also received additional funding from HUD in 2011 to provide predatory lending/housing counseling services.
- There are several organizations that offer fair housing training across the Commonwealth, including the National Affordable Housing Management Association and its Massachusetts chapter, Fair Housing Accessibility FIRST, and the Massachusetts Association of Human Rights and Relations and its members.
- The FHCGB continues to conduct testing, and reports that testing results continue to show discrimination in rental and sales, ranging from 33%-66% and highest on the basis of race and/or national origin.²¹⁹
- The Massachusetts Fair Housing Center also conducts testing and currently has resources to conduct three years of mobility counseling.

²¹⁹ Fair Housing Center of Greater Boston June 29, 2011 newsletter.

- The Suffolk University Testing Program, in partnership with the City of Boston, also recently received a HUD grant to conduct additional testing.
- Additional HUD funding for testing is needed; in particular, *testing in higher opportunity, suburban areas* would provide critical support for state goals and initiatives to promote further housing mobility towards such areas.

For further discussion of fair housing discrimination complaints and fair housing infrastructure in Massachusetts, see the Data Analysis section of this document.

10. Immigrant Populations/Limited English Proficiency and Challenges to Integration: Massachusetts immigrants, particularly those with limited English proficiency, sometimes face hostility and insufficient resources necessary for integration.

In recent years, immigrant related legislative initiatives, backed by public support, have reached the forefront. For example, in 2010, the Massachusetts Senate voted to approve various budget amendments directed at immigrants, including the creation of a hot-line to the Office of the Attorney General through which the general public could report on persons whom they suspected to be undocumented. In the same year, Massachusetts immigrants participated in a march through Everett, Chelsea, and East Boston, as similar marches occurred in other major cities across the country, to honor contributions immigrants have made and to respond to the anti-immigrant sentiments sparked by Arizona's immigration law.

Although the proposed budget amendments did not pass, it illustrated the level of public scrutiny towards immigrant populations. On the local level, perceptions of immigrant overcrowding, coupled with suspicions of unlawful presence, may contribute to discriminatory lease and/or sanitary code enforcement based on national origin or race/ethnicity. Notably, a discriminatory code enforcement case based on race was recognized by the Eight Circuit under disparate impact theory.²²⁰ Immigrant and ethnic populations may also face discriminatory terms, conditions, or services from landlords (e.g., landlord obligations such as maintenance) based on perceived immigration status, limited English Proficiency, and/or non-exercise of rights. In such instances immigrants would benefit from increased code enforcement as noted by Governor's Advisory Council for Refugees and Immigrants (discussed below).

In an effort to promote immigrant integration rather than exclusion, state agencies have been supporting a "New Americans Agenda." Governor Patrick's Executive Order 503, "Integrating Immigrants and Refugees into the Commonwealth," served as the impetus for said agenda and called for the Massachusetts Office for Refugees and Immigrants ("ORI") and the Governor's

²²⁰ In *Gallagher v. Magner*, 619 F. 3d 823, 833-34 (8th Cir. 2010), the Eight Circuit reversed summary judgment for the defendants, finding that plaintiffs had established a prima facie case of disparate impact under the Fair Housing Act, considering in part evidence that the City's aggressive housing code enforcement increased costs for owners which affected the supply of affordable housing and consequently impacted African Americans, who disproportionately represented the low-income population in the city. The Eight Circuit applied a "burden-shifting" approach by which plaintiff establishes a prima facie case of disparate impact on a protected class compared to the relevant population (no showing of intent required), followed by defendant's showing of a "manifest relationship" to a legitimate, non-discriminatory policy objective, and a final showing by plaintiff that there is "a viable alternative means" to meeting the legitimate objective without discriminatory effects.

Advisory Council for Refugees and Immigrants (“GACRI”) to develop and deliver policy recommendations to further integration of immigrant communities into the Commonwealth. The GACRI delivered its final recommendations to Gov. Patrick on Oct. 1, 2009 and the Governor publicly released the report on Nov. 17, 2009.²²¹ The recommendations focused on the following topic areas: civil rights, adult English language proficiency, economic development, education, public safety, employment and workforce development, access to state services, citizenship assistance, health, refugees, youth, and housing and community development.

With respect to housing, one notable recommendation was to provide financial incentives for builders to locate affordable housing near transportation and job centers. The report noted that a cause of concern for the immigrant community was “the location of affordable housing, often far from public transportation or employment.” Furthermore, as the report cited to the larger immigrant family household sizes (the average number of persons living in an immigrant household is 2.95 compared to a 2.35 average amongst native households),²²² and subsequently recommended a further expansion of accessibility to affordable housing “by increasing funding for subsidized housing to build more housing for a diverse range of income and family types.” Another recommendation called for promoting “community development in immigrant neighborhoods by investing in resources and supports, as well as improving physical infrastructure including the quality of housing and community spaces.” Some of the recommendations relating to housing and community development went beyond the authority of DHCD, such as creating an educational campaign for immigrants interested in becoming landlords and increasing the number of local and state inspectors available to review housing code violations.

Subsequently, the New Americans Inter-Agency Work Group, which included ORI and representatives for the other state agencies, prepared the Massachusetts NAA Action plan prepared for Governor Patrick (April 2010). Said Plan highlighted access to state services and also prioritized certain topic areas, including additional resources for English language learning, police training and communication with immigrant communities, and assistance with professional certification or re-licensing. Recently, the New Bostonians 2012 immigration summit also identified, in response to surveying, the most pressing issues for Boston immigrants as English as a Second Language (“ESOL”) resources, childhood education, and jobs.

The confluence of immigration/national origin and children/familial status must also continue to be evaluated, including in relation to “access to opportunity” as discussed in others sections herein. A recent study by the Urban Institute found that families’ language needs narrowed their child care options, often leading to reliance on relatives, neighbors, and some child care providers within their community, in addition to impediments faced by other low-income families such as reliance on public transportation which impedes accessing child care outside the community.²²³ Given the current limitations on ESOL resources and the importance of familial and social supports, revitalization and investments in existing immigrant communities, including

²²¹ See <http://www.mass.gov/eohhs/docs/ori/naa-report.rtf>.

²²² *Id.* at pg. 11.

²²³ Sandstrom, Heather, Lindsay Giesen, and Ajay Chaudry, “How Contextual Constraints Affect Low-Income Working Parents’ Child Care Choices,” Urban Institute, Brief 22 (February 2012).

Gateway Cities as discussed in section 1 above, are a critical component to improving access to opportunity for immigrant populations.

DHCD Action Steps

Ongoing Action Steps:

- Continue implementation of DHCD's Language Access Plan, including seeking additional resources from ANF to translate vital documents to the extent such resources are available,
- Continue partnerships to support the New Americans Agenda.
- Continue Gateway Cities agenda that is inclusive of immigrants and their vision, which is responsive to the NAA recommendation to promote community development in immigrant neighborhoods.
- Assist communities to translate public informational materials into other languages if future funding becomes available.

Partner Actions

- HUD should provide funding to communities and non-profits to offer more language assistance resources to foster immigrant integration efforts.
- The Commonwealth should expand resources for ORI beyond refugee services.
- Other state agencies that support better business should include assistance for immigrant entrepreneurship, including technical assistance to help immigrants become successful small landlords (a NAA recommendation).
- FHIP and FHAP agencies should increase multilingual capacity when providing training and outreach to the public on discriminatory housing practices.
- Programs that support immigrant families in schools such as the City Connects program should be expanded across the Commonwealth.²²⁴ A key component of the program is that it provides a school site coordinator to work with the classroom teacher and other school staff to assess each child's strengths and needs in four domains: academic, social/emotional, health, and family. Based on this information, each student is then connected to a tailored set of school and community based services. Governmental and non-governmental agencies could allocate funding to programs like City Connects to cover more schools, including schools in opportunity (higher performing) areas in order to further the effectiveness of potential housing mobility programs.

11. The Foreclosure Crisis and Impacts on Families and Neighborhoods of Color: The foreclosure crisis disparately impacted communities of color and currently impedes lending and mortgage availability for minority group homebuyers.

The foreclosure crisis has had a significant impact on Massachusetts and has likely furthered racial disparities in homeownership. The Corporation for Enterprise Development ranked

²²⁴ <http://www.bc.edu/schools/lsoe/cityconnects/>.

Massachusetts 50th in the nation in terms of homeownership by race, finding that White households have a 2.2 times higher homeownership rate than non-Whites, whereas nationally, the White households have a 1.6 times higher homeownership rate than non-Whites.²²⁵

*For a further discussion of the impact of foreclosures on minority group homebuyers and communities of color, see the Data Analysis section of this document.

Massachusetts Statutory Law Changes:

Chapter 206 of the Acts of 2007, “An Act Protecting and Preserving Home Ownership,” created a right-to-cure period, extended to 150 days through legislation in 2010, which gives homeowners approximately five months to find a solution to a pending foreclosure before the lender can complete the process. Said Act also requires the Massachusetts Division of Banks to maintain a foreclosure database, to analyze trends in foreclosures, and to develop a pilot program to provide best practices for consumers and mortgagees.²²⁶ Subsequently, Chapter 194 of the Acts of 2012, “An Act Preventing Unlawful and Unnecessary Foreclosures,” expanded consumer protections, including by imposing requirements on creditors to take reasonable steps to avoid foreclosure for certain mortgage loans and on lenders to prove loan ownership prior to taking foreclosure action.

Changes in Massachusetts law have also improved foreclosure prevention by addressing home buying with subprime loans. First-time home loan borrowers opting for a variable or adjustable rate subprime mortgage loan must complete first-time home counseling and receive certification from a non-profit counseling agency approved by HUD, MassHousing, or CHAPA before the lender can make the loan.²²⁷

DHCD and State Action Steps

- The Patrick-Murray Administration has responded to the foreclosure crisis through various initiatives, including 14 workshops in cities hit hardest by foreclosures that gave approximately 4,000 homeowners the opportunity to meet with lenders and consider potential workout options.

²²⁵ <http://scorecard.assetsandopportunity.org/2013/state/ma>. See also reports on foreclosures and lending to underserved minority group borrowers and neighborhoods in Massachusetts: e.g., Gerardi, Christopher S. and Paul S. Willen, “Subprime Mortgages, Foreclosures, and Urban Neighborhoods,” Federal Reserve Bank of Boston Public Policy Discussion Papers No. 08-6 (December 22, 2008) (available at <http://www.bos.frb.org/economic/ppdp/2008/ppdp0806.pdf>); Jim Campen, “Changing Patterns XIX: Mortgage Lending to Traditionally Underserved Borrowers & Neighborhoods in Boston, Greater Boston, and Massachusetts, 2011,” “prepared for Massachusetts Community and Banking Council (December 2012) (available at <http://www.mcbs.info/files/CP19-Report-Dec12.pdf>).

²²⁶ The Division of Banks, in consultation with the city of Boston, DHCD, MassHousing, and the Massachusetts Bankers Association, is to develop a pilot program to identify best practices for financial institutions to provide first time homebuyer loans, to provide for foreclosure prevention for at-risk homeowners, and to assist approved counseling programs. The program must also specifically provide best lending and borrowing practices for consumers and mortgagees in areas with low or moderate income census tracts or high foreclosure activity, and provide for foreclosure training to 10 or more foreclosure education centers for counseling and assistance to owner-occupied 1 to 4 family dwellings in such geographic areas.

²²⁷ See section 17B1/2 of M.G.L. c. 184 and sections 7 and 20 of M.G.L. c. 206.

- The Administration has also focused on stabilizing neighborhoods hardest hit by foreclosures. More than \$100 million in state and federal resources have been devoted to these areas since 2008, resulting in the acquisition, rehabilitation, and redevelopment of over 1,100 units of housing in 24 communities.
- DHCD recently received a \$2 million grant award from the Attorney General's Office (which the AGO obtained through a nationwide state-federal settlement over unlawful foreclosures) to assist in the acquisition and rehabilitation of foreclosed properties. With this funding, DHCD will be able to continue to assist the Neighborhood Stabilization Loan Fund, which is administered in partnership with the Massachusetts Housing Investment Corporation and the Massachusetts Housing Partnership.

Partner Actions

- The Patrick Administration developed a five point foreclosure prevention plan that involves various inter-agency partnerships to keep people in their homes and stabilize neighborhoods across the Commonwealth:

Five Point Foreclosure Prevention Plan

1. *Neighborhood Stabilization Pilot Programs*
Neighborhood stabilization pilot programs will be launched in Lawrence, Boston, Brockton, New Bedford, Springfield and Worcester. The Department of Housing and Community Development (DHCD), working with lenders and non-profits, will seek to reclaim foreclosed properties and make them available to qualified first-time homebuyers with the goal of restoring neighborhoods to fully occupied status as quickly as possible.
2. *Outreach and Education*
NeighborWorks' Center for Foreclosure Solutions has a free hotline at 1-888-995-HOPE that is available 7 days a week, 24 hours a day to provide foreclosure prevention information to Massachusetts homeowners and referrals to non-profit agencies for additional housing counseling. More details are available from the Neighborworks Hotline. For consumers facing imminent foreclosure, the Division of Banks and its mortgage hotline (1-800-495-BANK) can intervene and work with lenders to secure a 30 to 60 day delay in the foreclosure process.
3. *MassHousing Loan Refinancing Program*
MassHousing's \$250 million foreclosure prevention program provides fixed-interest rate refinancing loans and counseling services to struggling sub-prime borrowers. The program is privately financed through a \$190 million commitment from Fannie Mae and a \$60 million contribution from MassHousing. Eligible borrowers can be up to 60 days delinquent on their mortgage and have credit scores as low as 560. More details are available at MassHousing.
4. *Transition Resources*
Participating lenders will provide moving expenses and first and last month's rent to eligible homeowners who have lost their homes to foreclosure. Eligible homeowners are those with a sub-prime adjustable rate first mortgage on an owner-occupied 1-4 family home that was originated between January 1, 2004 and December 31, 2006 who have been foreclosed on within 4 years after the loan closed. Homeowners must also work

with an approved housing counselor, fully vacate the property within 30 days of foreclosure and leave it in habitable condition. Homeowners should contact NeighborWorks at 1-888-995-HOPE to locate a participating housing counseling agency.

5. *Best Practices*

The foreclosure prevention plan also outlines the following best practices for lenders which will become increasingly important as more adjustable rate mortgages reset to higher interest rates:

- i. contact borrowers at least three months prior to a mortgage reset;
- ii. consider long-term loan modifications;
- iii. review whether a sub-prime borrower qualifies to refinance into a more affordable product after one year of satisfactory payments;
- iv. require escrow of taxes and insurance for all new sub-prime borrowers;
- v. allow a pre-foreclosure sale or a deed in lieu of foreclosure.

- The Fair Housing Center of Greater Boston received a FHIP grant from HUD in 2011, which included funding to establish a housing retention program involving predatory lending and housing counseling services.
- The lending community must evaluate how to expand fair access to credit, particularly for racial/ethnic minority homebuyers, in the post-foreclosure crisis landscape.²²⁸ Federal regulators and funding agencies are currently determining how to best reform the lending system, which is currently experiencing reduced secondary mortgage market capital due to the crisis, to ensure a balanced approach that will enable homeownership for racial/ethnic minority groups (and other underserved populations) without posing an undue risk on borrowers or the lenders.²²⁹ Best practices include implementing a self-testing program to ensure discriminatory lending practices are not occurring.²³⁰ An additional best practice would be adoption of a “self-compliance” program, conducted by an independent third party.

12. Barriers to Mobility to Higher Opportunity Areas and Housing Choice Vouchers: High cost of living (i.e., rent, transportation, child care, etc.), discrimination, and other barriers to mobility continue to limit housing choice despite housing choice voucher programs, particularly with respect to mobility toward high opportunity or non-impacted areas.

As noted in DHCD’s current Consolidated Plan, Massachusetts, with its relatively old housing stock, is a costly state to maintain and operate housing: it has the highest percentage of housing units that were built before 1940 and the 4th lowest percentage of units built since 1990.²³¹ In its

²²⁸ See e.g., U.S. Department of Housing and Urban Development, “Paths to Homeownership for Low-Income and Minority Households,” Evidence Matters (Fall 2012), <http://www.huduser.org/portal/print/node/4645>.

²²⁹ Id.

²³⁰ See e.g., Bonnie Heudorfer., “Expanding Fair Access to Credit: A Resource Guide for Massachusetts Lenders on Second Look Policies, Mortgage Broker Oversight and Self-Testing,” prepared for the Massachusetts Fair Lending Coordinating Committee (June 2008), available at: http://www.mcbsc.info/files/Expanding_Fair_Access-WEB.pdf.

²³¹ See DHCD’s 2010-2014 Consolidated Plan at <http://www.mass.gov/hed/docs/dhcd/cd/planpolicy/consolidated/2010conplan.pdf> (citing and excerpting from “The

2010 edition of *Out of Reach*, the National Low Income Housing Coalition reported that Massachusetts had the seventh highest housing wage – the amount required to afford the 2-bedroom fair market rent – in the country. Moreover, the Economic Policy Institute’s 2008 family budget calculator, which ranks 614 HUD fair market rent areas (HMFAs) nationwide, determined that all of the Massachusetts HMFAs ranked in the top 10 percent in terms of total family budget required.²³² These affordability problems predictably have the greatest impact on extremely low-income households, particularly those with disabilities, and also on multi-generational families (often impacting protected classes based on national origin and race) and families with children that require housing units with more than 2 bedrooms.

Moving to Opportunity

As mentioned above, organizations such as the Urban Institute have revealed findings that Moving to Opportunity (“MTO”) experimental group families (provided housing counseling and limited to using a Section 8 Housing Choice Voucher in areas with poverty rates below 10% during the first year, as differentiated from public housing residents and standard Housing Choice Voucher holders) saw improvement in health and mental wellbeing but did not demonstrate significant gains in employment, income, or educational attainment.

HUD, the funding and policy source for the MTO Demonstration Program, has itself reported that MTO research findings evidence that moving to lower opportunity neighborhoods did not result in better educational, employment, or income outcomes overall. The program was designed as a 10 year demonstration in cities such as Boston, Baltimore, Chicago, New York City, and Los Angeles with the premise that families who moved away from the inequity of their low opportunity neighborhoods and moved to high opportunity neighborhoods (i.e., lower poverty neighborhoods with better schools, less crime, etc.) would increase their opportunities for personal and societal success. HUD’s Office of Policy Development and Research found that health outcomes were positive, both physically, such as lower obesity and diabetes, as well as mentally, particularly in terms of greater sense of safety and lower psychological distress among female youths and adults.²³³

The positive health results should not be de-emphasized, and perhaps are the most critically important outcomes that alone justifies mobility policies and programs, but policy makers still must consider, why were other positive outcomes not achieved? HUD points out that many families who moved out high of poverty neighborhoods relocated to *lower* poverty neighborhoods (i.e., 31% instead of 40% poverty rates), but not *low*-poverty as defined (15% poverty rate).²³⁴ The Urban Institute in turn suggests that such limited outcomes are more likely a function of the limited time many actually spent in the HUD defined “high-opportunity neighborhoods,” but that when comparing average neighborhood characteristics over time, numerous individual outcomes improved based on time spent in neighborhoods that scored *better*

State of the Massachusetts Housing Market: A Statewide and Regional Analysis” (2008), prepared by the Economic and Public Policy Research Unit, University of Massachusetts Donahue Institute, in conjunction with Bonnie Heudorfer, Housing and Planning Consultant).

²³² Id.

²³³ http://www.huduser.org/portal/pdredge/pdr_edge_frm_asst_sec_110311.html.

²³⁴ Id.

in terms of opportunity indicators.²³⁵ Using this methodology, the authors found that adults living in lower poverty and higher educated neighborhoods did have better adult outcomes in terms of employment, and physical health, and some better health outcomes for boys (although not girls).²³⁶ Educational outcomes were complicated by the fact that although many families moved to lower poverty neighborhoods, they generally remained in the same troubled school districts.²³⁷ Although Boston families ostensibly had more options given citywide school choice, many were either “information poor” as to school quality or were weighing school quality against other factors such as safety, child care and work issues, and social concerns.²³⁸

Another key question for policy makers is why did many of the experimental MTO families move on from the low poverty neighborhoods to poorer neighborhoods? “Three city” (greater Boston, New York and Los Angeles) data from the MTO demonstration indicates that almost half of moving families had a “worsening neighborhood trajectory” in that they did not remain long in the lower poverty areas and moved on to poorer areas over time.²³⁹ Findings were more positive with respect to Boston movers, although researchers note that 90% of metropolitan Boston neighborhoods had less than far 20% poverty compared to metropolitan New York (67%) and Los Angeles (63%); as such, many Boston families were already coming from, or more likely to move to, lower poverty areas in contrast with New York and Los Angeles families.²⁴⁰ Nevertheless, Boston experimental families still *did* fare much better than Section 8 families in terms of residency in lower poverty areas: while data indicates that 33% of the Section 8 group lived in census tracts with poverty rates under 20% by 2002, 71% of the experimental group movers did.²⁴¹

Although perhaps not as linear as originally anticipated, as MTO did demonstrate positive results, particularly in the Boston area and for children and adolescents, it is beneficial for federal, state, regional, and local agencies to support continued mobility demonstrations or programs in Massachusetts. To maximize opportunities and outcomes, such efforts should connect housing networks with educational and social service networks.

Various post-MTO research also provides richer, although more variable, standards for measuring “opportunity.” Opportunity indicators such as jobs, schools, and services have been further expounded and measured by the Kirwan Institute. DHCD has considered and worked

²³⁵ Turner, Margery A., Austin Nichols, and Jennifer Comey with Kaitlin Franks and David Price. “Benefits of Living in High-Opportunity Neighborhoods: Insights from the Moving to Opportunity Demonstration.” Urban Institute, Metropolitan Housing and Communities Policy Center (September 2012). Note that “high-opportunity neighborhood” definitions included not only low-poverty (below 15% poverty rate), but also high education (more than 20% of adults have completed college), high-work (labor force participation rates over 60%), high job density (census tracts with more than 200,000 low-wage jobs located within 4 miles of the tract centroid), and predominantly White population (White, non-Hispanic population greater than 70%).

²³⁶ *Id.*

²³⁷ Ferryman, Kadja S. “Do Neighborhoods for MTO Families Mean Better Schools?” Urban Institute, Metropolitan Housing and Communities Policy Center, Brief No. 3 (March 2008).

²³⁸ *Id.*

²³⁹ Comey, Jennier, Xavier de Souza Briggs, and Gretchen Weismann. “Struggling to Stay Out of High-Poverty Neighborhoods: Lessons from the Moving to Opportunity Experiment,” Urban Institute, Metropolitan Housing and Communities Policy Center, Brief No. 6 (March 2008).

²⁴⁰ *Id.*

²⁴¹ Kingsley, Thomas G. and Kathryn L.S. Pettit, “Have MTO Families Lost Access to Opportunity Neighborhoods Over Time?” Urban Institute, Metropolitan Housing and Communities Policy Center, Brief No. 2 (March 2008).

with Action for Regional Equity in comparing state housing programs against the Kirwan multi-variable indicators used in opportunity mapping.²⁴² Subsequently, DHD prioritized through its QAP discretionary “location in opportunity area” points based on the following categories: strength of public school system, access to employment, access to higher education, and access to health care) discussed in section 2 above.

Although generally not applicable to MTW PHAs such as DHCD, HUD provides an optional “deconcentration bonus indicator” for purposes of PHA assessment to PHAs through the Section 8 Management Assessment Program (“SEMAP”). PHAs can indicate in SEMAP that half or more of all Section 8 families with children assisted by the PHA in its principal operating area reside in low poverty census tracts, or can otherwise demonstrate improvements in the percentage of families moving to low poverty areas. SEMAP also includes consideration of job opportunities, schools, and services in terms of information that is provided to households to encourage mobility.

In determining an appropriate mobility to opportunity methodology, some important considerations include: whether “opportunity” should be defined for purposes of mobility the same as opportunity for purposes siting/funding affordable housing developments; whether there should be benchmarks that always apply, such as poverty and crime; and how education, services, transportation, and jobs should inform a pilot mobility program or modifications to voucher programs.

Synthesizing the various responses and approaches to these important policy questions should address the needs of various protected classes, income level (including extremely low-income and homeless populations), and linguistic isolation and immigration patterns. It must acknowledge that mobility success depends in part on individual family needs and logistical considerations (e.g., access to transportation, medical care, child care, social support s; availability of accessible public amenities and civic, social, and educational opportunities) as well as the housing market that the family seeks (including availability, affordability and accessibility of units, and non-discriminatory landlords). It should not under-value factors that affect individual and family choices, particularly for the state’s most vulnerable populations. In sum, any approach must be multi-faceted and, such facets should be capable of being viewed jointly as well as separately in order to serve different population needs as discussed in section 2 above.

DHCD Action Steps

- DHCD incorporated the following mobility initiative into its Section 8 Moving to Work Administrative Plan:

²⁴² See supra note 5.

Activity 2011-2: Opportunity Neighborhoods

Description/Update of MTW Activity: DHCD plans to establish an “Opportunity Neighborhoods” program in one or more selected neighborhoods in different regions throughout the Commonwealth. The majority of academic research and literature indicates that where a person lives determines (to various degrees), the opportunities afforded to them. The purpose of DHCD’s “Opportunity Neighborhood” MTW initiative is to provide significant supports and encouragement to existing voucher participants and/or new voucher holders who wish to move to areas with empirically-documented improved educational systems, job opportunities, social services and other opportunities in the expectation that over time their need for housing and other subsidies will abate or diminish. Existing participants and/or voucher holders moving into these areas will be provided with case management support both before and after the move through the participating regional administering agencies. Other incentives may be provided based on family needs and budget availability such as transportation assistance, child care referrals, training stipends, etc. Families will be encouraged or required to develop a family plan to access opportunities in their new neighborhoods with a special focus on positive outcome educational programs for children and available jobs for adults. Where appropriate, participants will also be encouraged to participate in the Family Self Sufficiency Program. DHCD has conducted research concerning educational outcomes of school age children. Using this research to identify Opportunity Neighborhoods, DHCD may implement a pilot mobility program to increase access to communities with high quality school districts in one or more of DHCD’s eight regions. During the past fiscal year, DHCD has worked with local graduate students to review this data and finalize the design of the “Opportunity Neighborhood” Program. In its current form, the program will offer revised payment standards, longer housing search periods, security deposit assistance, and move assistance to support moves to communities with high quality schools. In FY 2014, DHCD plans to complete the program design process.

DHCD may modify this initiative with further consideration of fair housing protected classes, availability of resources, relevant research, and further input from DHCD’s Fair Housing Advisory Panel and other groups.

Initial Fair Housing Advisory Panel Input:

- It is important to note that markets are cyclical: when the market goes down, landlords are more willing to work with voucher holders, and when the market gets better, the landlords want higher rents. It is difficult for voucher holders to compete in the market place; utilization rates and advocacy with HUD to increase Fair Market Rents is needed.
- DHCD should consider the reality of little additional funding and therefore the limitations of duplicating a pilot effort
- Housing agencies could consider assisting fewer people in as cost of providing more mobility resources
- Greater flexibility in search time is needed (note: there are not search time limits under DHCD MTW designation, which allows for more flexibility in program rules)
- DHCD/PHAs should focus mobility efforts on families who are already in housing with a voucher because they are not under a time crunch to find a new unit. DHCD should also consider that many people do not want to move, and that displacement concerns are still common in higher poverty areas

- In the western region of the state, the difference between high opportunity and low opportunity areas is often a block. Therefore, DHCD should consider a pilot not necessarily to move families farther, but to address mobility within Springfield. As Springfield is the most highly segregated MSA in the state and in the country, DHCD should focus on areas that are most egregious in segregation
- Mobility programs should also serve persons without children, particularly persons with disabilities for whom safe neighborhoods is also a key issue

What happens after a move to a higher opportunity area, including unit affordability, is of critical importance. Researchers identify the primary reasons experimental families provide for moving *out* of higher opportunity areas as problems with leases, landlord conflicts, and the desire to live in a bigger or better quality unit, the latter being the greatest reported motivator for Boston MTO families.²⁴³ Other indicators were the ability to secure access to child care, a (reasonably) secure job, and a unit that remained affordable.²⁴⁴ Notably, Turner and de Souza Briggs excogitate that “supply-side” or “unit-based mobility” strategies, which expand the stock of housing that remains affordable over time, are often managed by “social landlords” (nonprofits or socially responsible private firms) and are an important structural solution...²⁴⁵ Additional research indicates that the Boston MTO group was not much more successful than the public housing control, as only 33% of the former lived in tracts below 20% poverty 4-8 years later, while 23% of the latter did.²⁴⁶ Some policy recommendations have included “post-move counseling”²⁴⁷ to help families resolve issues with their landlords and units that may arise.

Another impediment to mobility to contend with is landlord discrimination against voucher holders. Discrimination based on a housing subsidy, including because of program requirements associated with the subsidy, is not unlawful under federal fair housing laws but does violate Massachusetts General Laws Chapter 151B § 4(10). However, despite the statute, rental voucher programs do impose requirements on landlords that landlords may find unfavorable; moreover, landlords may believe that a business justification for refusal to rent based on such requirements is not unlawful because it does not involve a discriminatory animus against the household. For example, In *Diliddo v. Oxford Street Realty*, the landlord argued that the one-month termination provision of the state’s Alternative Housing Voucher Program would cause substantial economic harm. The Massachusetts Supreme Judicial Court rejecting this argument, finding that ... “it is G.L. c. 151B, itself, not the defendants’ conception of what should or should not constitute discrimination, that delineates what is “legitimate” and “nondiscriminatory” under the statute. The statute contains no language requiring a showing of ‘animus.’”²⁴⁸

²⁴³ Comey, Briggs, and Weismann (2008).

²⁴⁴ Turner, Margery A. and Xavier de Souza Briggs, “Assisted Housing Ability and the Success of Low-Income Minority Families: Lessons for Policy, Practice, and Future Research.” Urban Institute, Metropolitan Housing and Communities Policy Center, Brief No. 5 (March 2008) (referring to these factors as a “three-way spatial match”).

²⁴⁵ Turner and de Souza Briggs (2008).

²⁴⁶ Kingsley and Petit (2008) (based on 2002 data).

²⁴⁷ The Baltimore Mobility Program, for example, includes post-and second move counseling. The program emanated from the historic desegregation lawsuit against HUD (*Thompson v. HUD*) which involved a settlement requiring HUD to further mobility to low poverty (below 10%), low minority group (less than 30%), and low subsidized (less than 5%) areas. However, it is important to note that there have been substantial financial resources for such counseling, as well as for monetary assistance to families, as a result of the settlement and additional support from foundations.

²⁴⁸ 450 Mass. 66, 77 (2007).

Although *DiLiddo* represents a positive precedent for voucher holders seeking to rent in Massachusetts, landlords remain an “unknown variable” not only in terms of their understanding and compliance with the law, but also in terms of their willingness to rent-and continue to rent-decent units at reasonable rents in communities that have tight and/or expensive housing markets. *Therefore, the “unit-based mobility” strategy, as noted by Turner and de Souza Briggs, of connecting mobile vouchers to “social landlords” (nonprofits or socially responsible private firms) in opportunity/non-impacted areas is a pragmatic and potentially cost-effective response that DHCD will further consider interfacing with DHCD’s Housing Development Funding Priorities.*

Additional Actions

- Improve web-based consumer information on community attributes and amenities (such as poverty rates, racial/ethnic diversity, public transportation access and accessibility, school information, health care facilities and services, etc.) to encourage mobility to non-impacted areas by linking or sharing such information with:
 - commonly used websites for housing search such as MassAccess and agencies that administer vouchers (i.e., regional non-profits and housing authorities);
 - agencies that provide housing search assistance (i.e., the Housing Consumer Education Centers (“HCECs”));
 - relocation agencies; and
 - other interested advocacy groups or organizations.Community specific information would be helpful not only to new voucher holders, but also to existing voucher holders and relocating households that either want and/or have to find new housing.
- DHCD will continue to utilize its MTW authority to approve payment standard exceptions without prior HUD approval, which achieves the goals of accommodating many extremely low income persons with disabilities and expanding housing choice options in “low-poverty, high-opportunity” neighborhoods.

Partner Actions

- The HCECs are an important conduit for connecting households, particularly voucher holders, to information about areas of opportunity. Additional HUD funding (i.e., should HUD resume funding for mobility counseling) would enable more hands-on support, such as assistance with applications, school and child care enrollment, transportation options, and other appropriate amenities and services that would be accessible from the housing.
- Regional-based coalitions, including through HOME consortia or other inter-municipal partnerships, could also serve as a significant resource for connecting households in higher poverty and racially concentrated areas within a region to lower poverty and non-impacted areas within that region, as well as provide the households helpful information on fair housing resources.
- Such regional coalitions should also sponsor or host forums on diversity and methods for welcoming persons traditionally underserved in higher opportunity suburban

communities, such as the forums previously provided by the Commonwealth Housing Task Force Expanding Opportunities Committee.

- Housing authorities and regional non-profit agencies administering federal and state vouchers should ensure that briefings for voucher holders contain information not only relative to housing in lower poverty areas (i.e., as required by HUD regulations for the Section 8 HCV program), but also opportunity/non-impacted areas generally and specifically based on school quality, public safety, job access, etc.
- All housing authorities in non-impacted areas should seek HUD approval to exceed the published FMRs for specified geographic submarkets of a larger FMR area.
- HUD should allow for (non MTW PHAs) longer search times, particularly for non-impacted areas with less rental stock, and should grant exceptions to payment standards in order to support mobility to opportunity/non-impacted areas.
- HUD should also expand its 2012 Small Area Fair FMR Expansion Demonstration Program,²⁴⁹ which was developed to, inter alia, test whether fair market rents based on smaller geographies within a metropolitan area would improve access to non-impacted areas.

13. Application Processes and Fair Access to Affordable Housing: Streamlined information and/or application processes would improve fair access to affordable housing; furthermore, more integrated information regarding opportunity/non-impacted areas and community attributes are needed to improve meaningful choice with respect to all types of housing.

A member of DHCD's Fair Housing Advisory Panel commented that an impediment to fair housing for consideration is the burden placed on applicants to completing separate, and often lengthy, applications required by a multitude of subsidized housing developments in Massachusetts. A single application or pre-application was proposed as a potential solution to help streamline application processes. DHCD acknowledges that there are benefits to streamlining information for applicants in general, and perhaps some applicants with disabilities in particular. DHCD does have a universal state-aided public housing and state rental assistance application, although it is submitted to LHAs individually or to NAHRO administered waiting list (for participating LHAs). State initiatives to regionalize public housing as discussed further below would greatly simplify the public housing application process.

With respect private subsidized housing, there are over three times as many owners and management companies as there are housing authorities, which magnifies the challenge of creating a unitary application process. Moreover, as financial feasibility for affordable housing developments increasingly requires subsidy layering across a variety of old and new state and federal programs, as well as increased targeting of service needs groups within such programs, subsidy requirements also impact the congruity of applications. Some eligibility related questions may also be appropriate or impermissible under fair housing laws (i.e., due to disability inquiries) for certain developments and not others.

²⁴⁹ See <http://www.huduser.org/portal/datasets/fmr.html>.
http://www.huduser.org/portal/datasets/fmr/fmr2011f/SAFMR_Demo_FRN_Posted.pdf.

With respect to federal housing choice vouchers administered by the state through the regional non-profit agencies, a single pre-application is utilized and applications are made to regional waiting lists. DHCD's current MTW Plan (Activity 2010-4) also addresses simplification and modification of forms as needed "to streamline processing, utilize 'plain language,' and address local housing market features." Furthermore, DHCD's MTW plan recognizes the importance of connecting households to information and resources to encourage mobility to "opportunity neighborhoods" in Massachusetts. As discussed in further detail in section 12 above, the importance of accessible information on opportunity areas is not limited to the Section 8 Housing Choice Voucher Program, although said program may serve as a platform for developing mobility initiatives that combine such information with support systems through the move and post-move phases in order to ensure lasting success.

DHCD and State Action Steps:

- Governor Deval Patrick filed legislation on January 10, 2012 that will professionalize, modernize and regionalize the operations and financial management of the Commonwealth's housing authorities:

Consolidating the state's 240 housing authorities into six Regional Housing Authorities (RHAs) will have professional senior leadership and centralize the Information Technology, Human Resources, administrative, accounting, procurement, and regional technical assistance. Through the regional housing authority system, local site managers and maintenance staff will effectively provide for the needs of the property and its residents.

Tenants and communities will find significant increases in operational capacity through the addition of regional staff and centralized back-office operations, including regional property managers, resident service coordinators, capital planning and project management staff and maintenance professionals with work crews. In addition, central staff will include senior managers, finance staff and functions such as human resources, accounting, and application and wait-list operations.

- DHCD has taken other efforts to improve the fairness of the application process, including by encouraging lotteries or other random selection procedures instead of first-come, first-served (date and time) resident selection methods. Although HUD has yet to require this for federally subsidized developments, DHCD revised its Affirmative Fair Housing Marketing Plan and Resident Selection (AFHMP) guidelines to expand use of random selection procedures after initial rent-up. Disability advocates requested DHCD to take this approach, as first-come, first-served methods for ordering applicants on selection/waiting lists may have a disparate impact on some persons with disabilities who require more time during the application process.
- The New Lease program (see section 15) will provide a centralized referral system for ELI families, through which the New Lease organization will partner with a limited number of DHCD-contracted service providers under the Emergency Assistance ("EA") program in four regional areas. These partners will refer qualified and interested families to New Lease when a unit becomes available and they will provide housing stabilization services after lease-up. New Lease will review applications from the partner providers in

a region and then send them to the property manager for suitability screening and selection.

- Improve web-based consumer information on community attributes and amenities, including specifically relative to “opportunity”/non-impacted areas, to encourage meaningful housing choice by linking or sharing such information with commonly used websites for housing search such as MassAccess, the Regional Housing Network and HCEC sites, as well as other agencies that provide housing search assistance.

14. Accessibility Limitations, Older Housing Stock and Gaps in Code Requirements: Accessibility is impeded by code inconsistencies and gaps in accessibility requirements, as well as insufficient financial resources for creating accessibility within older, historical, and/or smaller housing stock.

Massachusetts accessibility requirements are regulated by the Massachusetts Architectural Access Board (“MAAB”) and constitute the standard applied by local building inspectors. The CHAPA report, *Evaluation and Comparison of State and Federal Accessibility Codes* (November 2009), provides a detailed analysis of inconsistencies between state and federal requirements.²⁵⁰

DHCD participated in the CHAPA Access Code Committee, which in addition to supporting the report, proposed legislation in 2011 (“An Act to Ensure Accessible Housing for Persons with Disabilities”) to integrate greater federal accessibility into the state code (521 CMR) while preserving those state code provisions that provide for greater accessibility than federal standards. The legislation has not passed, and therefore the lack of one comprehensive accessibility code in Massachusetts continues to risk industry noncompliance with federal requirements and higher standards of accessibility.

In the absence of such legislation, the following housing types were identified as “gaps” in accessibility scoping requirements (referred to herein as “accessibility gaps”) that merit a policy response: 1) townhouses; 2) smaller projects; and 3) for-sale units.

Subsidized Housing:

As much of the state consists of older housing stock, much of the housing is not accessible or amenable to accessibility renovations based on small unit sizes and high cost of renovation and construction in Massachusetts. This problem also applies to much of the subsidized housing in Massachusetts, particularly the public housing stock which, unlike the private assisted housing market, has seen very little new construction in decades and therefore was not subject to new construction accessibility requirements. Funding to renovate and create accessible units in existing properties is quite costly because it often requires expanding the footprint of units, sometimes costing as much as \$200,000 for one unit through the public procurement process.

²⁵⁰ It is important to note that the U.S. Department of Justice subsequently revised its Title II ADA regulations (28 CFR part 35), which apply only to public entities. Said regulations now incorporate the 2010 ADA Standards for Accessible Design, replacing the prior option to use the Uniform Federal Accessibility Standards or the 1991 ADA Accessibility Guidelines. The latter option did not provide technical specifications for residential housing.

The state-aided public housing portfolio also generally suffers from inadequate funding. “The ‘Real Cost’ of Operating Massachusetts Public Housing report by the DHCD Real Cost Task Force (February 4, 2008) found that the current real cost of operating the state-aided public housing portfolio (close to 50,000 units) requires operating subsidies of roughly \$115 million/year, and possibly more, which contrasted significantly with the FY 2008 estimated costs of \$60 million in operating subsidy.²⁵¹ Although the state budget has significantly increased funding for state-aided public housing, the overall unmet needs for operating and capital funds represent an overall funding deficit, let alone an accessibility funding deficit. Even in the “special needs” (c. 689/167) public housing portfolio, much of the housing is outdated (some over 100 years old) and includes old, multi-story 8-10 person homes that cannot feasibly be adapted to modern DDS/DMH program needs for accessible 4-5 person apartments. Therefore, there continues to be a critical need for additional funding that is specifically allocated for the creation of accessible units in public housing.

If adopted, Governor Patrick’s proposed regionalization of public housing authorities would enable the state to pay for supervisory staff and “back-office” functions for all public housing at a highly cost effective rate. Such a regional operating system would produce efficiency and allow for reinvestments into the portfolio by regionalizing key operation functions, including: consolidating general administration functions, regionalizing capital project management practices, utility savings through combined rate negotiation and bulk purchasing, and enhanced technical assistance to maintenance staff. Regionalizing capital planning project management and technical assistance would also improve capacity for further capital planning for accessibility needs.

DHCD Action Steps:

- Required reporting of accessible units through MassAccess, an online affordable and accessible housing registry, pursuant to DHCD’s Affirmative Fair Housing and Marketing Plan guidelines.
- Participated in the CHAP Access Code Committee, which proposed legislation to modify the state code to the extent it requires less accessibility than federal standards identified in CHAPA’s report.²⁵² As such legislation has not passed, DHCD’s policy response aims to address patterns of new development that, because of its size, tenure, or type, or lack of federal funding would otherwise result in limited accessibility:

²⁵¹ <http://www.mass.gov/hed/docs/dhcd/ph/ph-reform/reportontherealcost.pdf> .

²⁵² Evaluation and Comparison of State and Federal Accessibility Codes (November 2009).

Accessibility gaps or inadequate accessibility in development exists when developers are not required to incorporate accessibility based on applicable accessibility codes, and it persists when such development is directly or indirectly required for local zoning approval. As DHCD is committed to affirmatively furthering the Fair Housing Act, as well as the ADA and Section 504, a DHCD policy response consistent with these laws would appropriately reduce such accessibility gaps.

To ensure non-discrimination and programmatic access for persons with disabilities consistent with the ADA and other disability rights laws, DHCD's policy response aims to address patterns of new development²⁵³ that, because of its size, tenure, or type, or lack of federal funding would otherwise result in limited accessibility.

1) *Townhouses*: funding agencies will require developers to provide accessible designs (i.e., that provide 5% or at least 1 accessible unit, whichever is greater) in their proposals for state housing development awards, and/or require accessible units by conditioning the awards.

2) *Small Projects*: funding agencies will require developers to incorporate accessibility (i.e., 5% or at least 1 unit, whichever is greater) as a condition for, or of, state assistance.²⁵⁴

3) *For-Sale Units*: funding agencies require ADA Title II regulatory guidance as a minimum standard of accessibility for homeownership developers seeking state funding.

- DHCD has set aside, within its own funding authorization, funds that would provide for the creation of additional accessible state-aided public housing units, including through renovations to vacant units, and reduction of state statutory and/or regulatory barriers to such creation. DHCD also intends to seek additional state funding from within the state's executive branch to provide to public housing operators so that they may be able to grant more requests for reasonable modifications to existing units.
- In its commitment to the goal of having 5% fully accessible units across the entire state-aided portfolio, in 2013 DHCD made \$1 million in FY14 funding available to LHAs to apply to increase the number of accessible units in their developments. The funding for this initiative is in addition to the existing 1% Formula Funding set-aside and the DHCD compliance reserve for reasonable modifications.
- DHCD also sought, as an outside section to budget and legislation, removal of the statutory limitation on the permissible number of new public housing units per land area under Section 31 of Massachusetts General Laws Chapter 121B.²⁵⁵ Such a statutory revision would enable the creation of accessible units that would otherwise be prohibited under the current language.

²⁵³ DHCD will also encourage for rehabilitation projects, although conditions relative to the site, topology, and building structure and size will be considered.

²⁵⁴ Including direct and indirect financial assistance, as well as other assistance characterized as a "Subsidy" for purposes of eligibility for a comprehensive permit under Chapter 40B.

²⁵⁵ "Projects involving the construction of new buildings by a housing authority shall be approved by the department...The department shall approve such a project only if it makes the following determinations: (i) the proposed project does not include in excess of one hundred dwelling units in any one site; (ii) the total combined number of units of the proposed project and any low rent housing project which is in existence or has been approved or is before the department for approval and is located adjacent to or within one-eighth of a mile of the site of the proposed project shall not exceed one hundred, other than those to be used specifically for elderly persons of low income." M.G.L. c. 121B § 31.

- DHCD will also continue to consider how it may further incorporate concepts of enhanced accessibility and usability, including through Universal Design and Visitability, into funding evaluation criteria as it has done in its Community Based Housing Program and in its Qualified Allocation Plan (see Section XI and Appendix G), which is applicable to the majority of DHCD subsidized rental developments.
- DHCD's Draft 2014 QAP highlights important initiatives for 2014, including emphasizing Visitability and design to improve and create more community based options for persons with disabilities. DHCD will work with the development community during 2014 to implement these approaches. DHCD also updated Visitability standards through the Draft 2014 QAP based on input from the Disability Law Center and other advocates.

Partner Actions

- Developers are in a key position to expand access to both affordable and market rate housing in Massachusetts, particularly to the extent they diversify their development portfolio, i.e., to incorporate non-townhouse multi-family housing and the features of Visitability and Universal Design, so that persons with mobility, sensory, and/or cognitive impairments, elders, families with children, and all others who can benefit from such features have an equal opportunity to enjoy the housing.
- Other state agencies are also supporting Universal Design, including the Executive Office of Health and Human Services ("EOHHS") and the Division of Capital and Asset Management ("DCAM"), by planning a training, procured through the Executive Office of Administration & Finance ("ANF"), for housing developers, architects and designers, policymakers, and other interested groups. The training was conducted by the Institute for Human Centered Design on December 4, 2013, expounding on the principles of Universal Design with specific, "hands-on" examples, and clarifying the differences between Universal Design and requirements of state and federal accessibility codes. Members of the planning committee will further discuss methods for incentivizing and assisting developers in incorporating universal design.
- Legislative action may also be necessary to ensure not only that the state accessibility code is consistent with federal standards, but also to expand Universal Design and Visitability beyond particular subsidy programs. In January of 2013, Senator Patricia Jehlen presented a petition for the passage of a *Resolve* for "providing for an investigation and study by a special committee relative to the need for accessible homes for elders, returning veterans with disabilities, and families that include persons with disabilities."²⁵⁶ The proposed *Resolve* provides various goals for the special committee (commission), including that "The commission shall consider such changes in public policy, regulation and legislation that are necessary to meet the need for visitable homes in the commonwealth by the year 2040, or such other year as the commission may determine to be more appropriate during its review."
- Continued legislative support and funding for programs, such as the Home Modification Loan Program²⁵⁷ for homeowner accessibility modifications

²⁵⁶ Senate Docket No. 01541, filed on January 18, 2013.

²⁵⁷ Provides no- and low-interest loans for home modifications for persons with disabilities and elders.

- administered through EOHHS, will also enable persons with disabilities to remain in their homes and avoid institutionalization, as well as to allow elders to age in place.
- Cities and towns are also important gatekeepers of accessibility expansion in Massachusetts. To the extent they do not zone for, or the extent permits include conditions that limit multi-family rental housing that would be accessible (as opposed to, e.g., townhouse and single-family development), accessibility expansion will continue to be impeded. Consequently, local action that permits or promotes the creation of accessible and Universal Design housing should positively factor into discretionary funding criteria.

15. Strategies and Resources Needed for Supportive and Community-Based Housing: Additional resources and strategies for supportive housing are needed to improve access to and retention in permanent, community-based housing.

Currently, significant state resources are dedicated to programs that promote community based living for persons with disabilities who would otherwise be institutionalized or at risk of institutionalization due to mental health, developmental, and physical disabilities. For example, the 2008 bond bill, Chapter 119 of the Acts of 2008 (“An Act Financing the Production and Preservation of Housing for Low and Moderate Income Residents), provided for \$40 million in for the Facilities Consolidation Fund (“FCF”) program, and \$30 million for the Community Based Housing (“CBH”) program. However, the limited annual bond cap authorization that DHCD receives for the CBH and FCF (approximately range of 5 to 7 million, respectively) to fund projects in the pipeline, particularly FCF projects, restricts the number of units that can be created in the near future.

Fortunately, additional federal funding is now available to support community-based housing pursuant to the Frank Melville Supportive Housing Investment Act of 2010, P.L. 111-374 (January 4, 2011), which authorizes the use of federal funds through an existing supportive housing program (Section 811 program) to be leveraged with mainstream affordable housing investments, particularly for mixed-population developments, to better serve priority supportive housing needs. HUD subsequently developed a new Section 811 demonstration by which state housing agencies that have entered into partnerships with state health and human services and Medicaid agencies can apply for Section 811 Project Rental Assistance for new or existing affordable housing developments funded through other federal programs or other sources of funding. Under the program, the housing is to be targeted to populations most in need of supportive housing with deep rental subsidies, to support mixed populations so as to integrate rather than segregate populations with disabilities, and to assist persons with disabilities to avoid or transition from institutions. The state applied and received new Section 811 funding as discussed below.

Action Steps:

- DHCD has continued funding and supported expansion of the FCF and CBH programs, including by seeking and achieving changes in statutory language to allow for-profit developers to serve as project sponsors.

- The state received funding through the Money Follows the Person grant demonstration program, administered through EOHHS, on housing and services options for individuals transitioning from institutions into the community.
- DHCD is currently engaging with other state agencies to support community-based living for persons with disabilities. One example is the Joint Committee on Housing for Persons with Disabilities that DHCD has convened with EOHHS. The task force will be developing strategies for expanding community-based housing options for persons with disabilities, including through implementation of the new state law “An Act Relative to Community Housing and Services,”²⁵⁸ and by submitting a joint application and MOU to HUD under the revised Section 811 Program. DHCD expects to fully implement the 811 award with its partners in 2014.
- DHCD has also implemented a new Supportive Housing Initiative through increased funding from the legislature for the Massachusetts Rental Voucher Program (“MRVP”). In September of 2012, DHCD issued a Request for Responses from property owners regarding the availability of 150 MRVP (project-based) vouchers to house and provide (or partner with an organization to provide) case management and stabilization services for homeless families. This initiative is part of the larger statewide initiative to address family homelessness through prevention and permanent housing, and it particularly addresses families that demonstrate multiple barriers (e.g., poor rental history, bad credit, etc.) to secure permanent housing *and* would benefit from services to maintain successful tenancies. DHCD also targeted new MRVP mobile vouchers to homeless families with disabilities.
- In February of 2013, DHCD received a \$3 million award from HUD which will further the state’s effort to increase supportive housing units and help hundreds of residents with disabilities avoid homelessness or unnecessary institutionalization. DHCD will use this federal funding to offer rental assistance to 100 extremely low-income persons with disabilities, many of whom are transitioning out of institutional settings. This funding offers permanent housing and critically needed supportive services to ensure these at-risk individuals find their place within the fabric of their community. In addition to the 100 units funded by HUD’s Section 811 Project Rental Assistance Demonstration Program (PRA Demo),²⁵⁹ DHCD has committed 50 vouchers that will provide a rent subsidy to the same population.
- DHCD’s Draft 2014 QAP highlights important initiatives for 2014, including an emphasis on supportive housing by encouraging developers to offer supportive services for future tenants of their projects. DHCD and its quasi-public affiliates already have made funding commitments more than 400 new supportive housing units.

²⁵⁸ The law requires 18 state agencies to draft and execute a memorandum of understanding that includes an action plan to coordinate and procure services, capital subsidies, and operating subsidies. The ultimate goal is to create up to 1,000 units of supportive housing by December 31, 2015.

²⁵⁹ Authorized under the Frank Melville Supportive Housing Investment Act of 2010, HUD’s Section 811 PRA Demo program provides funding to states for project-based rental assistance to develop permanent affordable housing options in integrated settings for extremely low-income persons with disabilities. Under the state health care/housing agency partnership, each state has in place a policy for referrals, tenant selection and service delivery to ensure that this housing is targeted to those persons with disabilities most deeply in need of affordable supportive housing.

Partner Actions

- Partners can assist DHCD in advocating for state authorization for higher annual spending for the FCF and CBH programs.
- 18 state agencies, including DHCD, have entered into a memorandum of understanding for persons with disabilities and other populations with service needs to create 1,000 units of permanent, supportive housing in collaboration with non-profit organizations in accordance said Act Relative to Community Housing and Services. The various types of supportive housing that will be funded will help reduce the numerous barriers to accessing and retaining permanent housing that persons with disabilities and persons who are institutionalized or at-risk of institutionalization, or persons who are homeless, face. The agencies will assess the results and recommend strategic reinvestments. Such an innovative and collaborative effort will improve existing processes, make recommendations for new, collaborative efforts and strategic reinvestments and develop a long-range action plan to meet the need for supportive housing among the Commonwealth's residents. Agencies will also be working with numerous housing and service provider partners in these efforts.
- Additionally, the aforementioned New Lease organization will partner with EA shelter providers and owners to serve families, many of which contain a person(s) with a disability, who need a low-moderate level of supportive services in order to maintain housing outside of shelter. Such families will receive a vacancy preference for units with deep subsidies in various assisted projects across the state. Each participating owner company will sign a Memorandum of Understanding outlining a target number of units they will commit in selected housing developments and will agree to work with New Lease and service provider partners in furtherance of supporting families to maintain stable tenancies. Each partner provider will also sign a Memorandum of Understanding outlining their referral responsibilities and their agreement to work with New Lease and the owner companies to best support the families to maintain stable tenancies. New Lease will also have a Family Emergency Housing Fund through to support families that have arrearages due to family emergencies and hardships.

VI. Conclusion

DHCD intends to further develop the action steps included in this report so as to create a workable implementation timetable, and will continue to consult with the Fair Housing Advisory Panel for additional insight with respect to implementation strategies. However, as noted above, it is important to understand the limitations of singular state agency action in reducing impediments to fair housing choice. The state and its partners must work together to determine the investments and affirmative steps that will achieve the fair housing goal of removing barriers to opportunity that have discriminatory effects and creating opportunity that will result in equitable outcomes for protected classes. The Governor's directive represents a huge step towards this goal, although collaborations with and outside of DHCD, including from other governmental agencies, for-profits and non-profits, fair housing organizations, and other stakeholders, must occur for the goal to be fully realized.

Appendix A:

Progress towards Previously Identified Impediments:

The following outlines and updates key steps taken towards overcoming fair housing impediments (note that this is not an all-inclusive list of identified impediments or action steps):

Impediment: Inadequate Enforcement of Fair Housing Laws Persist, and There is Not Sufficient Education about Fair Housing throughout the Housing Delivery System

Action Steps:

- Increased DHCD staff knowledge of fair housing laws and obligations through staff trainings and guidance and incorporated fair housing principles into programs and activities.
- Created DHCD Affirmative Fair Housing and Civil Rights Policy and Language Access Plan.
- Implemented civil rights review of DHCD discretionary funding applicants.
- Facilitated education for community stakeholders on fair housing laws and DHCD's Affirmative Fair Housing and Civil Rights policy (e.g.: conducted trainings for local housing authorities, housing consumer education centers, community action agencies, affordable housing lottery agents, regional groups, etc.; increased online fair housing information and resources; conducted outreach through trade organization events by the Massachusetts Chapter of the National Association of Housing & Redevelopment Officials, Massachusetts Union of Public Housing Tenants, Citizens' Housing and Planning Association, Metropolitan Area Planning Council, Boston Society of Architects, Commonwealth Housing Task Force, Boston Foundation, Massachusetts Association of Community Development Corporations, Massachusetts Municipal Association, Greater Boston Real Estate Board, Boston Bar Association, etc.).
- Quasi-public partners also engaged in trainings and outreach that incorporate fair housing (e.g., MassHousing TAP trainings for management companies, Massachusetts Housing Partnership Housing Institute conferences, etc.).

Impediment: There Exists a Persisting Lack of Knowledge Regarding the Housing Rights of People with Disabilities, and Ongoing Segregation and Stigmatization of People with Disabilities

Action Steps:

- Conducted trainings on Reasonable Accommodations/Modifications and Program Access for staff and providers such as local housing authorities, community action agencies, etc.
- Issued public notices to local housing authorities and regional non-profits (administering voucher programs) regarding reasonable accommodations/modifications, program access, and other disability-related issues.
- Engaged a consultant to provide a Self-Evaluation/Transition Guide and to assist with improving capital planning tools and materials for Local Housing Authorities in assessing barriers to accessibility.
- Updated capital planning tools and materials.
- Setting aside and seeking additional funding resources to increase accessibility in state-aided public housing.
- Required reporting of accessible units through MassAccess, an online affordable and accessible housing registry, pursuant to DHCD's Affirmative Fair Housing and Marketing Plan guidelines.

- Continued funding and supported expansion of the Community Based Housing and Facilities Consolidation Fund programs, including by allowing for-profit developers to serve as project sponsors.
- Building on the Money Follows the Person grant demonstration program, administered through the Executive Office of Health and Human Services (“EOHHS”) to improve housing and services options for individuals transitioning from institutions into the community, DHCD began planning with other state agencies to further support community-based living for persons with disabilities. One current example is the Joint Committee on Housing for Persons with Disabilities that DHCD has convened with the Massachusetts Executive Office of Health and Human Services. The task force is developing strategies for expanding community-based housing options for persons with disabilities, including through implementation of the new state law “An Act Relative to Community Housing and Services”²⁶⁰ and submitted a joint application and MOU to HUD under the revised Section 811 Program.

Impediment: There is a Paucity of Data on Occupants of Subsidized Housing

Action Steps:

- Implemented state Data Collection statute to collect current, accurate, and detailed information on the number, location, and residents (including race/ethnicity data) of assisted housing units and recipients of state or federal rental assistance in Massachusetts in the affirmative furtherance of fair housing.
- Collaborated to link Data Collection results with the Kirwan Institute “opportunity area” indicators (e.g., areas low in poverty and crime and high in access to good education and employment, etc.).
- Convened “Area of Opportunity” roundtable for key housing agency decision-makers to discuss such data.

Impediment: Greater Incorporation of Fair Housing Principles in DHCD Programs and Activities is Needed; Linking Housing, Community, and Transportation Planning and Development is also Needed to Promote Fair Housing and Regional Equity

Action Steps:

- Incorporated Fair Housing Mission Statement and Principles and Sustainable Development Principles into programs and funding review.
- Revised the state’s Low Income Housing Tax Credit Allocation Plan (“QAP”):
 - Increased competitive scoring points for developments located in areas low in poverty and subsidized housing
 - Increased points for developments with increased accessibility or features of Universal Design or Visitability
 - Decreased points for local support
 - Removed requirement for municipal approval
 - Incorporated various Universal Design features into its fundamental project characteristics design scoring

²⁶⁰ The law requires 18 state agencies to draft and execute a memorandum of understanding that includes an action plan to coordinate and procure services, capital subsidies, and operating subsidies. The ultimate goal is to create up to 1,000 units of supportive housing by December 31, 2015.

- Enhanced “comprehensive neighborhood revitalization” criteria
- Explicitly incorporated AFHMP requirements in the state’s Comprehensive Permit/Low or Moderate Income Housing regulations implementing Massachusetts General Laws Chapter 40B.
- Created Affirmative Fair Housing Marketing Plan (“AFHMP”) guidelines for applicability across state programs. (DHCD further expanded and improved upon the guidelines through May 2013 revisions).
- Analyzed housing mobility towards high opportunity neighborhoods for DHCD’s Section 8 Moving to Work (“MTW”) program initiative.
- Continued to promote public transportation access through TOD Infrastructure and Housing Support Program.
- Partnered (EOHED) with regional planning agencies and other regional organizations to develop the 495/MetroWest Compact Development Plan. The Plan is intended to further regional equity by coordinating job growth with development in transportation, housing, and other investments, thereby increasing both opportunities and *meaningful access* to opportunities by protected classes in the region.
- Engaged in the Governor’s Commission on Public Housing Sustainability and Reform. The Commission was charged with developing recommendations to ensure the long-term viability of state-aided public housing as a resource for serving low-income persons, including families with children, persons with disabilities, and elders.

Impediment: Restrictive Local Zoning Frustrates the Ability to Achieve Fair Housing Objectives and Benefits throughout Massachusetts

Action Steps:

- Continued promotion of Chapter 40B, Chapter 40R, inclusionary zoning, and Smart Growth tools that advance fair housing principles, including through conferences, outreach, and technical assistance by DHCD’s Office of Sustainable Communities.
- EOHED is currently evaluating and supporting revisions to Massachusetts zoning statute, Chapter 40A, which would further reduce local zoning barriers to multifamily and affordable housing and related litigation. This effort has included EOHED engagement with the state legislature, cities and towns, and other interested groups in proposing the Land Use Partnership Act (“LUPA”).²⁶¹

Impediment: Homeownership and Rental Opportunities for Low/Moderate Income Households are Limited due to Escalating Prices and at Risk Affordable Housing Stock

Action Steps:

- Protected at risk affordable housing stock through Massachusetts General Laws Chapter 40T, “An Act Preserving Publicly Assisted Affordable Housing,” which grants authority to DHCD to make an offer and/or respond to a right of first refusal when the owner of a covered property intends to sell the property. Since Chapter 40T was enacted in 2009, no project has lost affordability as a result of a sale, and in 2010-2011 alone, 6,100 units were preserved.
- Improved foreclosure prevention educational efforts, including through the DHCD funded Housing Consumer Education Centers.

²⁶¹ The Land Use Partnership Act is legislation that resulted from the Zoning Reform Task Force deliberations between 2007 and 2009. The bill was filed for consideration during the 2009-2010 Legislative Session, and again during the 2011-2012 Legislative Session.

- Improved stabilization in communities that were affected by the foreclosure crisis, many of which have higher racial/ethnic minority populations, through distribution of federal Neighborhood Stabilization Program funds. These funds were used primarily for the acquisition and rehabilitation of abandoned and foreclosed properties.
- Increased community revitalization in low-income, minority, and immigrant areas through Gateway Plus Action Grants to increase economic opportunities and civic engagement and planning, as well as to increase diversity of housing options. DHCD also created the Housing Development Incentive Program (“HDIP”), a new state tax-credit program to spur market-rate housing development in the Commonwealth’s 24 Gateway Cities.
- Furthered mixed-finance options to increase rental affordability for very low-income households by leveraging private funds along with public housing, project-based vouchers, and/or other subsidy programs.
- Introduced significant reforms in homelessness prevention and rehousing through a “housing first” strategy. This strategy will now more fully integrate supportive services, including for persons with disabilities, in coordination with the aforementioned Act Relative to Community Housing and Services.

Impediment: Language Barriers Faced by Recent Immigrants Create an Increased Challenge to Mobility

Action Steps: address linguistically isolated households

- Participated in the Governor’s Advisory Council on Refugees and Immigrants and development of a New Americans Agenda for Massachusetts.
- Finalized Language Access Plan (“LAP”) and accompanying guidance.
- Contracted with vendor for ongoing over-the-phone interpretation service.
- Completed DHCD all staff protocols for utilizing interpreter and translation services.
- Translated key phrases for inclusion in DHCD program notices and/or documents to notify persons with LEP of important and legal documents and the right to free language assistance.
- Translated and continue to translate vital DHCD program documents.
- Conducted and planning further outreach on language access obligations, including for entities administering DHCD programs.

Impediment: Local Selection Preferences and Potential Discriminatory Impacts

- Supported a local preference study that primarily examined the level of participation by racial and ethnic minority households through a sample of state-assisted (private) affordable housing lotteries and developments in comparison to the racial and ethnic makeup of the community and region of such development.
- The study found that racial/ethnic minority participation was strong overall and did not conclude that use of local (residency) preference has had disparate impact on racial/ethnic minority groups, although this is likely due, at least in part, to state policies intended to mitigate this impact.
- DHCD will continue to consider the potential fair housing effects of local preferences and re-evaluate regulations and guidelines that address such preferences in state public as well as private housing programs.

Appendix B:

Current Priority Action Areas:

Further Access to “Areas of Opportunity”

- Invest and preserve resources to improve opportunities for a range of households in impacted areas

Neighborhoods in Massachusetts and across the country that are identified as areas of concentrated poverty, which strongly correlate with areas of racially/ethnically concentrated poverty, often suffer disinvestment and lack the opportunities of higher income communities. As the thousands of Massachusetts households across all protected classes that reside in “lower opportunity” areas may not have the ability, means, or desire to relocate to “higher opportunity” communities, further action is needed to create new opportunities. While new federal initiatives such as Choice Neighborhoods are being implemented, the state is also focusing on initiatives to spur investment in distressed communities, including through the Gateway Cities, HDIP, and other programs discussed above. DHCD will also be enhancing partnerships with non-governmental entities by providing grants to Community Development Corporations to increase economic opportunities for lower income households pursuant to the Community Development Partnership Act. Additionally, DHCD will be administering a two million dollar award from the Attorney General’s Office (which the AGO obtained through a nationwide state-federal settlement over unlawful foreclosures) to assist in the acquisition and rehabilitation of foreclosed properties. With this funding, DHCD will be able to continue to assist the Neighborhood Stabilization Loan Fund, which is administered by the Massachusetts Housing Investment Corporation and the Massachusetts Housing Partnership.

- Invest and develop policies to increase access to non-impacted areas

Given the ongoing patterns of racial/ethnically concentrated areas impacted by poverty in the Commonwealth, the limited affordable housing in non-impacted areas, and the consequent barriers that households of color have to accessing these communities, an essential element of DHCD’s efforts to meet its affirmative fair housing obligation must be to manage our housing programs to create and/or enhance resources, particularly affordable, quality housing, in non-impacted areas. This will be achieved by balancing (1) the affirmative obligation to support investment, particularly in affordable rental family housing, in non-impacted areas in order to open up access to the life-long benefits of such areas to all residents, with (2) strategic housing and community development re-investment in impacted areas in order to support efforts to foster and enhance opportunity in such neighborhoods. DHCD will consider publicly available data as a reference point for understanding the resources and challenges of our communities. DHCD’s programs will seek to identify and fund housing and community development projects that achieve the goal of connecting households, particularly households of color, with educational, employment and public health opportunities. DHCD has made significant alterations to its housing development funding application process to, inter alia, improve the integration of housing development with access to opportunity locations. Namely, DHCD has formulated key funding priority categories outlined below that developer applications must satisfy in order to be considered and proceed to full application review. Furthermore, DHCD has proposed, through its 2013 QAP (also outlined below), a more detailed schema for defining and awarding discretionary points for development based on “location in an area of opportunity.”

HOUSING DEVELOPMENT FUNDING PRIORITIES

(<http://www.mass.gov/hed/docs/dhcd/hd/lihtc/hs-developmentfunding.pdf>)

(6/19/12)

PRIORITY CATEGORIES

Applications to DHCD in the October 2012 rental round will be required to fit within one or more of the following categories:

- 1) **Housing for extremely low-income (ELI) individuals, families, and seniors** earning less than 30 percent of area median income with a particular focus on those who are homeless or at risk of homelessness. Projects in this category must be supported by tenant services and include at least 20 percent ELI units. Projects can serve families or individuals, seniors, persons with disabilities, and persons with special needs.
- 2) **Investment in distressed and at-risk neighborhoods** where strategic housing investment has a strong likelihood of catalyzing private investment, improving housing quality, and promoting occupancy at a range of household incomes. Projects in this category include projects located in the Commonwealth's 24 Gateway Cities and/or Qualified Census Tracts (QCTs, as defined by Section 42 of the Internal Revenue Code). Projects serving families, seniors, persons with disabilities, or populations with special needs are eligible in this category.
- 3) **Preservation of existing affordable housing** that extends affordability in situations that are consistent with QAP policies and the preservation working group policies (matrix). To be eligible to apply for 9 percent tax credits, a sponsor must demonstrate that the project is infeasible with 4 percent credits and tax-exempt financing. Projects serving families, seniors, persons with disabilities, or populations with special needs are eligible in this category.
- 4) **Family housing production in neighborhoods and communities** that provide access to opportunities, including but not limited to, jobs, transportation, education, and public amenities. Access to opportunity locations will be defined by publicly-available data. At least 65 percent of the units in a project must be 2 BR or larger, and at least 10 percent must be 3 BR, unless that percentage of 2BR or 3 BR units is infeasible or unsupported by public demand. Projects serving families, including families with a member with a disability or special needs, are eligible in this category.

ADDITIONAL CONSIDERATIONS

Projects that fall into one or more of these four funding categories and that also meet pre-screening criteria and QAP threshold criteria will be competitively scored. In order to achieve a balance between locations and housing types and to promote the most effective uses of limited public subsidy, the Department also will consider the following:

Geographic Balance

It is important to ensure that changes to the QAP do not disproportionately affect particular regions or types of communities. DHCD currently considers geographic distribution in making funding decisions and will continue to do so.

Location and Transportation

Housing affordability is now often defined by the combination of housing costs and transportation costs. The competitive scoring of state funding applications should take this into account through enhanced scoring for transit-oriented developments with the possibility of additional points for projects located in close proximity to public transportation (for example: within ¼ mile of a rapid transit or community rail station).

Subsidy Efficiency

Given the increasingly constrained subsidy resources, DHCD must evaluate the amount of state subsidy requested per affordable unit. This evaluation may include leveraging of local financial support, donated land, and other resources. However, DHCD recognizes that certain smaller, mission-driven projects (such as housing for formerly homeless households) tend to require more subsidies per affordable unit.

Community Development Impact

The Department seeks to support affordable housing projects that also advance broader community development goals while understanding that such strategies will vary from municipality to municipality. An ideal community development strategy would address multiple goals and may include: the role of residents, local businesses and other local stakeholders in the development process; whether the project is part of a series of connected or linked real estate projects that together are designed to revitalize the area; whether the project or development sponsor links residents to community services, such as education, workforce development, recreation, and other amenities; or whether the project is part of a neighborhood or community plan that was developed with community input and leadership, whether or not it is an official municipal plan.

2013 QAP

(<http://www.mass.gov/hed/docs/dhcd/hd/lihtc/draft2013qap.pdf>)

Location in an Area of Opportunity

For purposes of allocating the credit in 2013, DHCD has established four priority funding categories, including location of a family project in an “area of opportunity.” In 2013, DHCD also is awarding special project points for location within an area of opportunity. The Department defines an area of opportunity in part as a neighborhood or community with a relatively low concentration of poverty based on U.S. Department of HUD data. In addition, DHCD identifies an area of opportunity as a neighborhood or community that offers access to opportunities such as jobs, health care, high-performing school systems, higher education, retail and commercial enterprise, and public amenities. To determine whether a location is an area of opportunity, sponsors should use publicly available data such as employment statistics; location near mass transit, green space, and other public amenities; educational testing data; and so on. Sponsors also should confirm with DHCD that their evaluation of an area of opportunity is consistent with the Department’s evaluation, since the Department will make the ultimate decision.

To be eligible to receive points within this category, a family housing project typically must be located in a census tract with a poverty rate below 15%. Projects located in municipalities with overall poverty rates below 15% may also qualify for points within this scoring category. On a case by case basis, at its sole discretion, the Department will permit certain projects to receive points in this category if the poverty rate in the census tract and/or the municipality is 15% or higher, as long as the project is located in an area with compelling attributes that make the location desirable to renters.

To be eligible to receive points within this category, a family housing project also must include certain design characteristics: the project must be configured to contain at least 65% two-bedroom or larger units and at least 10% three-bedroom units, unless either percentage is demonstrated to be infeasible or unsupported by public demand.

If the thresholds described above have been met, DHCD will award points within this category as follows:

Up to 8 points for **strength of public school system:**

Points will be awarded to family housing projects as follows based on the percentage of 10th grade students that score in the Advanced or Proficient categories using an average of the 3 MCAS tests (English Language Arts, Mathematics, and Science and Technology Engineering) as available at http://profiles.doe.mass.edu/state_report/mcas.aspx :

90% or above: 8 points

85% or above: 6 points

80% or above: 4 points

75% or above: 2 points

Up to 6 points for **access to employment:**

Points will be awarded as follows based on the proximity to jobs of the municipality in which the family housing project is located as defined by average vehicle miles travelled by commuter as available at <http://www.mass.gov/hed/housing/affordable-rent/low-income-housing-tax-credit-lihtc.html> :

5 miles or less: 6 points

7 miles or less: 4 points

9 miles or less: 2 points

Up to 2 points for **access to higher education:**

Two points will be awarded within this category to family housing projects located within two miles of community colleges and/or state colleges/universities within the University of Massachusetts system.

Up to 2 points for **access to health care:**

Two points will be awarded within this category to family housing projects located within one mile of a major health care facility, such as a hospital, an urgent care center, or a neighborhood health clinic.

The maximum number of points awarded in this category will be 14 points.

DHCD will conclude its ongoing work in defining objectives and data for mapping opportunity areas to further inform funding and policy decisions. In addition to promoting affordable housing development in non-impacted locations, which still encounters various barriers (e.g., local zoning restrictions) and limitations (e.g., high land and development costs, including escalating material and soft costs), fair housing choice must also include opportunities for families and individuals to seek various types of housing across the state, including non-subsidized developments. However, such “mobility,” particularly for low-income households, has its own barriers (e.g., inadequate access to resources, high rent, discrimination), such as those further discussed in this AI. In response to mobility barriers, DHCD included a pilot mobility initiative in its Section 8 Moving to Work Administrative Plan (from the HUD approved FY13 Annual MTW Plan) summarized below. (<http://www.mass.gov/hed/docs/dhcd/ph/mtw/hudapprovedgy13mtw-plan.pdf>).

Description of MTW Activity: DHCD will establish an “Opportunity Neighborhood” program in one or more selected neighborhoods in different regions throughout the Commonwealth. The majority of academic research and literature indicates that where a person lives determines (to various degrees), the opportunities afforded to them. In 2009, the Kirwan Institute completed an extensive mapping project of the geography of opportunity areas in Massachusetts. They looked at 19 different indicators of opportunity from three different categories of opportunity: educational, economic and neighborhood/housing. The purpose of DHCD’s “Opportunity Neighborhood” MTW initiatives to provide significant supports and encouragement to existing voucher participants and/or new voucher holders who wish to move to areas with empirically-documented improved educational systems, job opportunities, social services and other opportunities in the expectation that over time their need for housing and other subsidies will abate or diminish. Existing participants and/or voucher holders moving into these areas will be provided with case management support both before and after the move through the participating regional administering agencies. Other incentives may be provided based on family needs and budget availability such as transportation assistance, child care referrals, training stipends, etc. Families will be encouraged or required to develop a family plan to access opportunities in their new neighborhoods with a special focus on positive outcome educational programs for children and available jobs for adults. Where appropriate, participants will also be encouraged to participate in the Family Self Sufficiency Program. DHCD will identify Opportunity Neighborhoods using a framework developed by the Kirwan Institute for the Study of Race and Ethnicity at Ohio State University and other research and literature.

DHCD proposes to measure the number of households moving and/or residing in opportunity neighborhoods, the increase in household income and the increase in educational attainment. The current baseline of households served under this program is zero. DHCD has established a benchmark of 30 current participating voucher households to be served under this initiative during the first year of operation. If DHCD cannot identify current participants, it will work with its partners in the targeted neighborhood to identify prospective families, in which case these households would be served under DHCD’s broader use authority. Individual household baseline information will be collected upon move-in to the opportunity neighborhood. Benchmarks related to educational attainment of household youth and household income will be established.

To more expeditiously respond to reasonable accommodation requests and expand housing choice options in “low-poverty, high-opportunity” neighborhoods, DHCD will continue to utilize its MTW authority to approve payment standard exceptions without prior HUD approval.

DHCD may modify this initiative subject to available resources and input from DHCD’s Fair Housing Advisory Panel and other groups.

- Implement fair housing evaluation criteria on opportunity areas for discretionary grants and/or impose fair housing conditions on grants to opportunity areas

The policy of fair housing evaluation criteria for DHCD discretionary grants and funding proposed in DHCD’s Fair Housing and Civil Rights Policy (2009) has undergone review and is restated, along with new considerations that have been incorporated, below:

Fair Housing and Civil Rights Evaluation Criteria for Discretionary Grants: Community Practice for Evaluation

Tier 1

- Zoning/land use bylaws
- Multi-family permitting denials
- Diversity of housing (building) types
- Availability of subsidized family housing (vs. age-restricted housing)

Tier 2

- Application for and use of transportation/ environmental/ community development/other discretionary funds/community services to improve community assets to draw or benefit a diversity of housing types, incomes, and protected classes.
- Use of CDBG and CPA funds to support diverse housing stock
- Participation in regional planning and development activities
- Adoption of “Compact Neighborhoods”
- Fair housing civic engagement/outreach (e.g., fair housing training for community housing and planning employees, outreach to the community, civil rights commission or resource for responding to allegations of local discrimination, etc.)
- Diversity of residents in the municipality
- Efforts to increase compliance with accessibility requirements and to increase Visitability and Universal Design
- The extent to which local housing authorities provide project-based vouchers

Tier 3

- Diversity of subsidized housing for a range of income levels
- Extent of support for affirmative fair housing marketing efforts
- Diversity of residents in subsidized housing located in the municipality
- Foregoing or minimizing use of local residency selection preferences
- Existence and implementation of an affordable housing plan and/or comprehensive neighborhood revitalization plan
- Existence of an affordable housing partnership or other entity
- Actions relating to preservation (versus demolition) of subsidized housing
- Efforts to increase accessibility, Visitability, and Universal Design
- Other efforts to create an open community (e.g., LEP services, fair housing related counseling, fair housing testing)
- Title VI LEP compliance
- De-leading initiatives

Tier 4

- Discrimination complaints filed

Fair Housing and Civil Rights Evaluation Criteria for Discretionary Grants: Sponsor/Developer Practice for Evaluation

Tier 1

-Discrimination complaints filed/discriminatory advertising

Tier 2

- Diversity of housing (building) types
- Diversity of subsidized housing for a range of income levels and family sizes (applications to subsidizing agencies considered)
- Extent of affirmative fair housing marketing efforts
- Efforts to increase compliance with accessibility requirements and to increase Visitability and Universal Design
- Other efforts to create or further a diverse community through the proposed housing
- Title VI LEP compliance
- Developer partnerships with non-profits and other agencies to identify and address access barriers relative to opportunity for residents in the proposed housing development location

- Coordinate efforts with other state agencies administering discretionary grants to opportunity area communities

Despite the importance of DHCD's use and allocation of its discretionary funds to communities, the leverage that such funds may have, i.e., in reducing local barriers to housing, is somewhat limited considering that many communities are not eligible for (because they receive funding directly from the federal government), or seek, DHCD administered funds. Therefore, further inter-agency discussion is needed to determine what actions are likely to have the most impact in terms of broadening fair housing choice and access to opportunity beyond housing. Such discussions are set to occur, as Governor Patrick has directed the state's Assistant Secretary for Access and Opportunity to:

- (1) Convene an internal working group, post completion of the Analysis of Impediments, to review the AI and to identify and make policy recommendations to mitigate state public policies that function as impediments to fair housing choice, and
- (2) Convene a second working group, which would consist of state agency representatives, representatives from Action for Regional Equity and other community-based stakeholders to engage a broader effort to promote equity across state policies and programs.

DHCD will actively participate in these working groups and contribute policy recommendations, such as coordinating public investments with other state agencies in order to: incentivize municipalities to permit the creation of affordable housing, particularly affordable rental housing for families; address barriers to fair housing choice that impacts protected classes and reach beyond DHCD (e.g., affordable/public transportation options, education, etc.); and ensure that investments in lower "opportunity areas" will leverage effective neighborhood revitalization and improve access to opportunity for protected classes.

- Continue to improve language access

DHCD will continue to work towards full implementation of its Language Access Plan discussed above, including further translations of vital documents into additional languages, as well as to seek compliance from entities that receive DHCD funding. DHCD will also follow state executive orders and directives that impose language access obligations on all Massachusetts executive agencies.

Reduce Local Barriers to Housing Choice

- Revise housing development approval criteria to require diversity of bedroom sizes in family developments to ensure families with children are adequately served

DHCD continues to evaluate how it may improve housing opportunities for families, primarily families with children, that require larger sized (multiple bedroom) units. For example, DHCD's 2013 QAP underscores DHCD's priority for the production of rental units suitable for families. At least 65% of the units in a proposed production project must have two or more bedrooms, and at least 10% of the units must have three bedrooms, with exceptions only applying if efficiency or one-bedroom units are appropriate for the intended residents. DHCD's AFHMP guidelines incorporate household size related requirements to ensure that subsidized units are available to households that need the number of bedrooms in the unit.

DHCD will institute a policy related to Subsidized Housing Inventory ("SHI") eligibility, to be finalized in FY 2014, to address the imbalance of age-restricted housing versus housing for families with children. Furthermore, in determining whether a housing development site is appropriate under the state's affordable housing zoning law, M.G.L. c. 40B, DHCD and state subsidizing agencies will take into account information provided by a municipality as to whether it has met the purpose of Chapter 40B in meeting regional housing needs. This would include municipal efforts to create zoning districts and/or requirements that provide the opportunity for affordable housing, including affordable housing that is available to families with children (i.e., for which at least 10% of such housing contains units with 3 or more bedrooms).

- Ensure approval criteria are consistent with state initiatives to increase multifamily housing and address local planning/zoning that may disparately impact fair housing protected classes

DHCD will work to ensure that approval criteria are consistent with proposed policies such as the above-referenced Land Use Partnership Act (LUPA), which does not credit/certify local planning for new housing units that is restrictive, through zoning or other means, as to number of bedrooms or age of residents.

Furthermore, DHCD revised its Chapter 40B/Comprehensive Permit and Affirmative Fair Housing Marketing Plan and resident selection guidelines to further mitigate the potential disparate impact that local zoning policies or practices may have on families with children and other protected classes. DHCD efforts to enhance the Chapter 40R program to reduce local zoning barriers also affirmatively furthers fair housing; similar to subsidy programs under Chapter 40B, Chapter 40R developments are subject to DHCD's Affirmative Fair Housing Marketing Plan and Resident Selection Guidelines.

DHCD has also developed a new Compact Neighborhoods Program Policy²⁶² to incentivize municipal cooperation and proactive planning for multifamily housing development. Under the program, municipalities that are certified by DHCD as creating Compact Neighborhoods will receive a preference for discretionary funding by state agency programs, such as the MassWorks infrastructure program. To participate in this program, a municipality must meet certain requirements such as identifying an "as-of-right" base or overlay zoning district ("Compact Neighborhood") with a minimum density and allowing for a minimum number of Future Zoned Units. DHCD expects municipalities, in drafting zoning ordinances, to promote the development

²⁶² See <http://www.mass.gov/hed/community/planning/compact-neighborhoods.html> .

of housing across a range of incomes and appropriate for diverse populations, including families with children, persons with disabilities, and elders. Although the Compact Neighborhoods Program targets communities that do not have as-of-right zoning (primarily suburban communities), urban communities will not be disadvantaged in terms of state infrastructure funding, as such communities are also eligible for a funding preference through the Gateway Cities initiative.

- **Public Housing Reform**

Governor Patrick filed legislation in January of 2012 that would regionalize public housing by consolidating the 240 housing authorities across the state into six regional housing authorities. The proposed regionalization would consolidate functions such as administration, accounting, procurement, and technical assistance. A key goal is to improve and streamline the operation of public housing, including with respect to resident services, wait-list operations, maintenance, and capital project management. It is anticipated that regionalization will have positive impacts in terms of the capacity to addressing regional housing needs and to more efficiently and effectively respond to applicant/tenant matters, including reasonable accommodations/modifications and language access.

Expand Accessibility

- **Adopt policies for state-funded developments that address gaps in accessibility code standards or that otherwise enhance accessibility**

DHCD participated in the Citizens' Housing and Planning Association ("CHAPA") Access Code Committee, which proposed legislation to modify the state code to the extent it requires less accessibility than federal standards identified in CHAPA's report.²⁶³ As such legislation has not passed, DHCD's policy response aims to address patterns of new development that, because of its size, tenure, or type, or lack of federal funding would otherwise result in limited accessibility. The following are three focus areas:

1) Townhouses: funding agencies will require developers to provide accessible designs (i.e., that provide 5% or at least 1 accessible unit, whichever is greater) in their proposals for state housing development awards, and/or require accessible units by conditioning the awards.

2) Small Projects: funding agencies will require developers to incorporate accessibility (i.e., 5% or at least 1 unit, whichever is greater) as a condition for, or of, state assistance.

3) For-Sale Units: funding agencies require ADA Title II regulatory guidance as a minimum standard of accessibility for homeownership developers seeking state funding.

DHCD will also continue to consider how it may further incorporate concepts of enhanced accessibility and usability, including through Universal Design and Visitability, into funding evaluation criteria as it has done in its Community Based Housing Program and in its Qualified Allocation Plan (see Section XI and Appendix G), which is applicable to the majority of DHCD subsidized rental developments.

²⁶³ Evaluation and Comparison of State and Federal Accessibility Codes (November 2009).

- Further integrate accessibility into capital planning systems and budgeting for the state-aided public housing portfolio
- DHCD has set aside, within its own funding authorization, funds that would provide for the creation of additional accessible state-aided public housing units, including through renovations to vacant units, and reduction of state statutory and/or regulatory barriers to such creation. DHCD also intends to seek additional state funding from within the state’s executive branch to provide to public housing operators so that they may be able to grant more requests for reasonable modifications to existing units.
- DHCD also sought, as an outside section to budget and legislation, removal of the statutory limitation on the permissible number of new public housing units per land area under Section 31 of Massachusetts General Laws Chapter 121B.²⁶⁴ Such a statutory revision would enable the creation of accessible units that would otherwise be prohibited under the current language.

Increase Supportive Housing

DHCD along with 17 other state agencies has entered into a memorandum of understanding to create 1,000 units of permanent, supportive housing for persons with disabilities and other populations with service needs in collaboration with non-profit organizations in accordance with “An Act Relative to Community Housing and Services.” The various types of supportive housing that will be funded will help reduce the numerous barriers to accessing and retaining permanent housing that persons with disabilities and persons who are institutionalized or at-risk of institutionalization, or persons who are homeless, face. Additionally, the agencies will assess the results and recommend strategic reinvestments.

²⁶⁴ “Projects involving the construction of new buildings by a housing authority shall be approved by the department...The department shall approve such a project only if it makes the following determinations: (i) the proposed project does not include in excess of one hundred dwelling units in any one site; (ii) the total combined number of units of the proposed project and any low rent housing project which is in existence or has been approved or is before the department for approval and is located adjacent to or within one-eighth of a mile of the site of the proposed project shall not exceed one hundred, other than those to be used specifically for elderly persons of low income.” M.G.L. c. 121B § 31.

Appendix C:

Indicators for Measuring Fair Housing Progress and Outcomes

The following is a listing of key DHCD objectives that are generally measurable in nature:

- The number of projects receiving state funding for development or substantial rehabilitation in “impacted areas”
- The number of “non-impacted” communities or communities undergoing significant revitalization or improvements to fair housing access that receive DHCD discretionary funding
- The number of households served through a tenant-based voucher mobility initiative by race/ethnicity
- The increase in representation of racial and ethnic minority groups in communities with state assisted housing across the Commonwealth that are currently under-represented by minority groups
- The number of municipalities that adopt Compact Communities, 40R districts, or other inclusive zoning measures
- The number of municipalities that have achieved the 10% affordable housing goals for purpose of Chapter 40B
- The number of multifamily rental units created overall, as well as created to be affordable to households earning at or below 60% or 50% of the area median income and 30% of the area median income
- The number of units that are preserved at or below 60% or 50% of the area median income and 30% of the area median income
- The number of Gateway Cities that have developed Housing Development Incentive Program zones
- The number of family, non-age-restricted rental units created (3+) bedrooms
- The number of accessible units created for persons with disabilities in state assisted housing
- The number of projects incorporating enhanced accessibility, including through features of Universal Design or Visitability, in state assisted housing
- The number of supportive housing units created for persons with disabilities, homeless families, and other populations with service needs
- The number of languages for which DHCD vital program documents are translated
- The number of state agencies that adopt policies that explicitly support an equal access and opportunity agenda consistent with this document

Appendix D:

Summary of Public Comments to the 2013 Draft AI and DHCD Responses

The following is a focused summary of public comments to the 2013 Draft AI by common topic areas and corresponding responses.²⁶⁵ Comments below are primarily summarized based on recommendations and/or issues raised.

Accessing and measuring “opportunity” in communities

Commenters generally supported the draft AI’s attention to balancing reinvestment in racially and ethnically concentrated communities that have been disproportionately impacted by poverty, underperforming schools, crime, etc., with expansion of housing options for families and individuals in communities that provide opportunities for improved life outcomes such as educational and job attainment and health. One commenter emphasized that “zip code is destiny.”

With respect to appropriate data measures for “opportunity” or for determining “non-impacted” areas, one commenter expressed support for a combined use of Kirwan Institute and HUD data and for supplemental data such as access to transit, after-school programs, affordable food and shopping, child care, and Longitudinal Employer-Household Dynamics data, recognizing that some indicators may be of higher importance depending on the population to be served by a proposed housing development. The commenter also recommended the treatment of “opportunity” in the Qualified Allocation Plan (QAP) be refined and that the role of opportunity in final funding decisions should be clearer.

One commenter expressed concern about the “opportunity” nomenclature used in the draft AI and the QAP and stated that the opportunity framework failed to take into account the full breadth of opportunity or recognize that the Commonwealth is home to many diverse households. Furthermore, the commenter indicated that the tensions between segregation and displacement need better discussion and housing patterns in the private housing market need further consideration. The commenter also stated DHCD should help local communities to market and be more welcoming, although acknowledged the draft AI’s discussion of local exclusionary zoning and (the commenter) also indicated that that the only way to reduce racially concentrated areas of poverty is to attract households that are not poor or White. Local community based organizations were cited in the comment as a potential source for offering programs and initiatives to welcome and integrate newcomers into communities.

Another commenter indicated the need for a clearer approach to evaluating when housing in lower opportunity areas should not be preserved in view of fair housing goals, defining and measuring neighborhood “revitalization,” and preventing the effects of gentrification such as displacement that may result from improving opportunities. As a first step, the commenter suggested looking at what has been in done in poor minority areas, acknowledging there have been almost no studies on what happens in neighborhoods that have undergone complete revitalization, noting as an exception a study by Stefanie DeLuca on Baltimore neighborhoods demonstrating mixed results.

The commenter additionally expressed that the AI should demonstrate the extent to which housing is disproportionately represented in racially and ethnically concentrated areas of poverty, how the growth of

²⁶⁵ Comments provided in response to the Notice of Public Hearings on the Draft 2013 AI, which allowed for submission of written comments. In preparation of the Draft 2013 AI, additional comments and feedback (i.e., from Fair Housing Advisory Panel members) were taken into consideration.

income inequality may coincide with residential segregation, and how to make housing available for minority poor and not just local residents.

Several comments entailed discussion of transportation and other factors that affect opportunities for protected classes. One commenter noted that “non-impacted areas” should include criteria that address the importance of transit access. Another commenter advised analysis that recognizes most people of color are transit dependent and stated that the AI should call for an MBTA/RTA expansion and upgrades to provide greater access to areas of high opportunity to protected classes, utilizing a housing and transportation cost index as a predictor of housing access for protected classes. The commenter also suggested the AI call for additional state actions: state-initiated strategies to lower soft costs and building materials, noting they are rising faster than labor costs, to help increase the supply of affordable housing (providing streamlined development or cooperative buying programs as examples); and a more equitable distribution of jobs and economic development that is inclusive of those in lower opportunity areas.

Response:

DHCD will incorporate commenter suggestions in its upcoming state agency working group discussions described in part V, section 6 of the AI (referred to as the “working groups” in this Appendix). DHCD disagrees that the AI does not recognize the diversity of households in Massachusetts or take into account the breadth of opportunity. Part V, section 2 of the draft and final AI contains extensive discussion of factors and challenges in framing opportunity, recognizes that needs of various protected classes must be taken into account and therefore proposes use of “data overlays.” The AI also does not limit data indicators that should be considered or discount individual preferences. Said section states that (the opportunity framework) should be “usable yet dynamic enough to address various needs and goals...any approach must be multi-faceted and such facets should be capable of being viewed jointly as well as separately. Most importantly, it must be subject to continuing dialogue and evaluation. DHCD continues to engage with policy-makers, researchers, advocates, and other stakeholders in developing this framework.”

DHCD is also sensitive to issues with labeling a community as a “high opportunity” or “low opportunity” community, in part because opportunity is not universal for all, and because of the stigmatizing effect it may have on communities and its members. For these reasons, DHCD’s adopted use of “impacted” and “non-impacted” terminology. However, the use of “opportunity” or similar term cannot be divorced from the discussion or made so subjective that it is ineffective in guiding policies and legal obligations to address racial inequities and to affirmatively further fair housing. The HUD Affirmatively Furthering Fair Housing (“AFFH”) proposed rule discussed above uses the alternative terminology of “community assets,” but also references “access to neighborhood opportunities such as education, employment, low poverty, transportation, and environmental health, among others.”²⁶⁶ Additionally, prior to the draft AI, DHCD had already used the term “opportunity” in documents such as the QAP and Moving to Work (MTW) plan and in referencing the Kirwan Institute’s “Geography of Opportunity”²⁶⁷ report, and as such there is still a relevant context for use of the term. DHCD acknowledges that the QAP and MTW should be updated as necessary for consistency with the AI and policies developed through the working groups.

DHCD agrees that standards for revitalization and gentrification need further discussion, as does preservation to the extent it relates to these standards. With respect to gentrification, the state has a strong history of imposing affordability restrictions on housing rehabilitation and adaptive reuse, including recent preservation of affordability through Chapter 40T, thereby limiting displacement that would otherwise occur. In terms of fair housing considerations relating to preservation of affordable housing,

²⁶⁶ 78 FR 43709, 43717.

²⁶⁷ See *supra* note 2.

DHCD recently proposed an amended preservation matrix in the Draft 2014 QAP by adding an “investment in opportunity” category, which provides higher priority for preservation if it is in a neighborhood or community with a relatively low concentration of poverty (below 15%) based on HUD data and that offers access to jobs, health care, high-performing school systems, higher education, retail and commercial enterprise, and public amenities, or other similar indices of opportunity consistent with DHCD fair housing principles and policies, and middle priority if it provides access to jobs, health care, high performing schools, higher education, retail and commercial enterprise and public amenities, and/or resources on-site or within the immediate area that address the lack of any such elements.

DHCD disagrees that the only way to decrease racial/ethnic concentrations of poverty is to attract households that are not poor or White. Such a position in fact aggravates concerns of gentrification. DHCD recognizes that an important aim of neighborhood revitalization is to spur economic opportunities, including by attracting private and public sector businesses and services, so that more families and individuals have the opportunity to work (or train or attend classes) close to home and near child care, thereby increasing household incomes, and often simultaneously improving safety in the community.

DHCD agrees that the private and non-affordable housing market must continue to be considered as part of the overall analysis. The draft and final AI contain detailed analysis that is not limited to the affordable or subsidized housing market; e.g., it discusses challenges with the private market such as the foreclosure crisis, mobility barriers for voucher holders such as high rents, and discriminatory housing practices. It is important to note that the subsidized housing market provides a venue for DHCD to exert requirements, i.e., through DHCD Affirmative Fair Housing Marketing and Resident Selection Plan requirements, so that persons outside a community feel encouraged to apply and are provided a fair chance at selection. That said, efforts by community based organizations to attract newcomers, including higher income households in an effort to reduce concentrations of poverty, is a helpful partner action and is now noted in the AI (part V, section 5).

DHCD considers the AI to have adequately, if not extensively, covered issues relating to location of housing in racially/ethnically concentrated areas of poverty (e.g., part IV, sections 5 and 7, part V, section 2), income disparities and segregation (e.g. part IV, sections 1, 4, and 5), and housing for poor racial/ethnic minority groups in communities that create barriers, or that may be perceived as unwelcoming to such housing or populations (e.g., part V, section 5). The issue of how to appropriately measure whether a community has “revitalized,” or will revitalize, as a result of a project or public investments is more complex as now noted in Part V, section 1. A somewhat sophisticated regression or other multivariate analysis may be needed, and this is an area where DHCD would benefit from assistance from other agencies or organizations that engage in such data analysis and research. Determining whether poverty has decreased and whether “opportunity” or “community asset” indicators have increased in a neighborhood that has undergone a revitalization project(s) might be a more workable measure, pending input from the working groups and/or final direction from HUD. HUD’s new “Promise Zone” grant program may also provide a helpful model.

DHCD also agrees with the importance of economic factors that are distinct but related to housing choice and community assets, such as equitable distribution of jobs and economic development, and has therefore incorporated the point through the AI discussion of the working groups. Building costs (soft and materials) are also now noted in part V, section 2, and Appendix B. DHCD will also continue to consider transit access as a measure of opportunity or as a community asset, for all types of communities, including because it relates to the HUD proposed job access index for measuring community assets (among other indices described in the AFFH proposed rule). The draft and final AI recognizes racial disparities in transportation, including by citing an analysis from The Dukakis Center for Urban and Regional Policy showing that racial/ethnic minority group members are more likely to travel by public

transit than whites.²⁶⁸ DHCD has also incorporated the recommendation regarding MBTA and regional transit authority expansion and improvements through the AI discussion of the working groups.

Restrictive zoning, evaluation criteria, and impact on families with children

Commenters generally supported the need for civil rights discretionary funding criteria, enforcement, and other efforts to reduce exclusionary zoning practices and increase housing opportunities for families with children and other protected classes. One commenter offered strong support but indicated that effectiveness will depend on the weighting of factors, and that communities that are “turning over a new leaf” should not be excessively penalized. Another commenter suggested that the evaluation criteria for discretionary funding to communities should include a comprehensive neighborhood revitalization plan (not limited to housing).

Several commenters indicated that agencies that enforce fair housing laws should direct further efforts towards addressing exclusionary zoning practices. Additionally, one commenter recommended that the AGO, MCAD, and/or other third party such as the Fair Housing Center of Greater Boston should engage in an independent review of local zoning changes to actively guide municipalities away from exclusionary zoning. Another commenter provided extensive discussion, including citation of case law and description of local practices of “fiscal zoning” to “child proof” the community.²⁶⁹ The commenter also indicated that the AI should discuss whether a series of land use decisions, even if not in writing or in the form of a fiscal land use analysis, represents a “policy or procedure” that would be covered under the final HUD Discriminatory Effects rule. The commenter indicated that minimizing fiscal impacts for purposes of land-use decisions would not satisfy the “substantial, legitimate, nondiscriminatory interest” standard under the HUD rule, posing for consideration that “a ‘long-run variable cost analysis will always be hypothetical or speculative, both in terms of: (1) the number of school-age children generated by any give development; and (2) the long-run variable cost per student’ and (3) the percent or proportion of school-age children that would attend local public schools.”²⁷⁰

Several commenters acknowledged the effect that exclusionary zoning practices have on the availability of affordable housing for families with children, and also expressed strong support for the requirement that 10% of units in a state assisted development contain three-bedrooms as discussed in the AI. One commenter also noted that data from the ACS (2007-2011) shows that three bedroom apartments are in greater demand than other rentals across 71% of the state’s housing market, and provided supporting data on lower vacancy rates for three bedroom rentals (lower than a “normal” vacancy rate of 6% as described by the commenter).

One commenter questioned whether the three-bedroom policy discussed in the AI would apply to developers not intending to seek state subsidies, and also appeared to question whether previous municipal zoning actions would affect the application of the policy. In terms of the AI discussion of a policy related to Subsidized Housing Inventory (“SHI”) eligibility to address the imbalance of age-

²⁶⁸ See supra note 154.

²⁶⁹ Commenter referenced court cases, e.g., *Southern Burlington County N.A.A.C.P. v. Mt. Laurel Township*, 67 N.J. 151 (1975), *National Land and Investment Co. v. Kohn*, 419 Pa. 504 (1965), *Board. of Ed. of Black Horse Pike Regional School Dist. v. Gloucester TP*, 127 N.J. Super. 97 (1974), *U.S. v. City of Black Jack*, 508 F.2d 1179 (8 Cir. 1974), *Avalon Bay Communities, Inc. v. Town of Orange*, 2000 WL 226374 (Conn. Super. 2000), *Molino v. Mayor and Council of the Borough of Glassboro*, 116 N.J. Super. 195 (1971); commenter also discussed developer comprehensive permit applications under Chapter 40B to the Belmont Zoning Board of Appeals, indicating in the comments that the town made efforts to reduce the number of units that would serve families with children and raised “fiscal impact” concerns.

²⁷⁰ Comments submitted by Roger D. Colton, Fisher, Sheehan & Colton, Public Finance and General Economics (December 2, 2013).

restricted housing versus housing for families with children, one commenter recommended that the balance be considered at the “front end” in that housing already available or under review in a community should be taken into account when a housing development proposal is being considered.

Response:

The final AI incorporates the recommendations of third party action, including independent review of local zoning changes to actively guides municipalities away from exclusionary zoning and appropriate enforcement action (see part V, section 4). DHCD also anticipates, and will also recommend, that the AGO be included as a participant in the working groups. DHCD agrees that evaluation criteria should not excessively penalize communities, particularly those that are demonstrative efforts to be more inclusive; rather, it is DHCD’s hope that it will incentivize and provide support for community leaders to adopt more inclusive policies and practices. Although DHCD finds that the Tier 1 (relating to local zoning and permitting of housing types) criteria should receive greater weight given the fair housing impact of exclusionary zoning as discussed in the AI, DHCD is open to proposals on weighting criteria and discussion in the working groups.

In response to the comment regarding application of the HUD Discriminatory Effects rule, as stated in the draft AI, the rule added to HUD regulations implementing the Fair Housing Act the provision that “Enacting or implementing land-use rules, ordinances, policies, or procedures that restrict or deny housing opportunities or otherwise make unavailable or deny dwellings,” and it is not clear to what extent this prohibition would address individual land use decisions or request for fiscal impact analysis regarding potential school costs. Although a series of land use decisions arguably represent a land-use policy, DHCD defers to future HUD interpretation and litigation to settle this matter. Notwithstanding such interpretation, DHCD reiterates that cases such as *Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel* and *Amesbury v. Attitash Views*, and other cases discussed in part IV, section 4 of the AI (now including additional cases based on comments), illustrate the limits on appropriate use of local zoning power both within and outside the context of Chapter 40B. DHCD also notes the commenter’s point regarding use of a fiscal analysis (of potential school age children) to justify zoning and land use decisions, as a hypothetical or speculative analysis would not support a “substantial, legitimate, nondiscriminatory interest” defense to a discriminatory effect claim under the HUD rule.

With respect to commenter questions about the application of the three-bedroom policies, DHCD clarifies that since the policy would be adopted by the state subsidizing agencies, it would only apply to developments seeking approval under a state program (including, although not limited to projects proposed under Chapter 40B). The policy also does not apply based on evaluation of prior municipal actions, but is intended to provide a broad approach to further the supply of affordable three bedroom units across the Commonwealth.²⁷¹ With respect to the SHI counting policy, it is still under review. DHCD agrees that a front-end approach by the state subsidizing agencies should occur, although notes that this would not cover federally funded projects that are not administered through the state.

DHCD has added to the AI the comment that three bedroom rental units are in greater demand than other rentals across 71% of the state’s housing market, as indicated by lower vacancy rates (below 6%).²⁷² DHCD has also incorporated the comment regarding a comprehensive neighborhood revitalization plan by including it in the civil rights evaluation criteria for discretionary funding to communities. DHCD

²⁷¹ This policy is separate from the Comprehensive Permit Guidelines section that addresses consideration of whether a municipality has met the purpose of Chapter 40B by creating zoning districts and/or requirements that provide the opportunity for affordable housing, including affordable housing that is available to families with children and for which at least 10% of such housing contains units with 3 or more bedrooms (Section IV(A)(3)(a)).

²⁷² Source: MHP (citing 2007-2011 ACS data).

notes that the evaluation criteria in the AI also includes application for and use of transportation/ environmental/ community development/other discretionary funds/community services to improve community assets to draw or benefit a diversity of housing types, incomes, and protected classes.

Accessibility and Housing Options for Persons with Disabilities

Commenters generally supported efforts to increase housing accessibility in the Commonwealth. Comments were also provided in support of Visitability and Universal Design. DHCD recognizes that Universal Design promotes usability for a full range of needs and not just the needs of persons with disabilities; however, DHCD, as well as some commenters, view Universal Design as an important method for increasing housing options in the community for persons with disabilities or persons who may acquire a disability in the future. One commenter suggested that Universal design and Visitability should be threshold requirements for housing development rather than be encouraged (i.e., through points) in discretionary subsidized housing awards.

Numerous comments were provided, by one commenter in particular, regarding steps DHCD should take to measure accessibility of current housing units, as well as efforts housing providers are making to increase accessibility. The latter namely by inventorying “Section 504 plans” from public and subsidized housing providers across the Commonwealth. Specifically, one commenter suggested that DHCD hire a consultant to collect all Section 504 plans across the state, and that DHCD should invest in a pilot regional field study to “investigate in the ways in which factors of community connectivity and enrichment” are currently available to non-elderly households with disabilities and families with children with disabilities (citing, inter alia, educational and employment opportunities, accessible civic engagement, accessible healthy food markets, transportation access and safe public rights of way). Additionally, one commenter indicated DHCD should provide funding to LHAs so that they may increase their stock of accessible public housing units.

Various additional comments were directed at DHCD but addressed issues that fall under the jurisdiction or programs of other agencies. One commenter suggested DHCD provide a timeline of progress regarding architectural barriers and fair housing violations across the state, and that DHCD update the Section 504 accessibility checklist for the (HUD Section 8) Housing Choice Voucher Program (“HCVP”). Another commenter stated more oversight of 504 plans is needed, and that there are loopholes in the HUD regulations concerning accessibility requirements and program accessibility. The Home Loan Modification Program (“HLMP”), which is administered through MRC, was also addressed, including the requirement that HLMP provider agencies can only disburse up to one-third of the total contract price prior to the start of work. Additionally, disbursement can only be provided for materials, and not labor, before the contract begins, and disbursement of funds directly to subcontractors is prohibited. DHCD also received the comment that the next AI should include an overview of inter-agency partnerships that have stated plans (i.e., regarding community based housing options), as some may be inconsistent and/or need coordination.

Comments were also provided regarding limitations of data on persons with disabilities and housing accessibility. One commenter suggested that DHCD provide data similar to the U.S. Census Bureau’s American Community Survey (“ACS”), the Comprehensive Housing Affordability Strategy (“CHAS”) data sets (HUD compiled U.S. Census and ACS data), and American Housing Survey (“AHS”). DHCD provision of supplemental data was also suggested, including with respect to housing needs. Additional comments requested clarifications regarding accessibility, Section 8 waiting list, MassAccess, and group quarter data.

Response:

As now noted in the final AI, DHCD’s Draft 2014 QAP highlights important initiatives for 2014, including emphasizing Visitability and design to improve and create more community based options for

persons with disabilities. DHCD will work with the development community during 2014 to implement these approaches. DHCD also updated Visitability standards through the Draft 2014 QAP based on input from the Disability Law Center and other advocates.

DHCD has also made significant contributions to increasing the accessibility of public housing units. Through Public Housing Notice 2013-26: Accessible Unit Initiative for FY14, DHCD made \$1 million in FY14 funding available for Local Housing Authorities (“LHAs”) to apply for in 2013 to increase the number of accessible units in their developments as a step towards achieving the goal of 5% full accessibility across the entire state-aided portfolio. The funding for this initiative is in addition to the existing 1% Formula Funding set-aside and the DHCD compliance reserve for reasonable modifications. DHCD is also currently pursuing a survey of accessible (and adaptable and modified) LHA units to improve data and aid assessments on LHA accessibility and accessibility deficits. As noted in the AI, DHCD has also provided LHAs guidance on self-evaluation plans and encouraged LHAs to pursue additional resources, such as CPA, CDBG, and other local (or locally administered), to work towards achieving accessibility goals.

DHCD finds that several comments, including a timeline of progress regarding architectural barriers and fair housing violations across the state, enforcement of Section 504 plans, and improvement of Section 504, HCVP, and HMLP standards, are more appropriately addressed by the agencies that have jurisdiction over such matters. DHCD notes that other agencies, namely HUD and the U.S. Department of Justice (“DOJ”), impose and enforce the requirements of Section 504 (as well as ADA) plans and other requirements, while the Massachusetts Architectural Access Board (“MAAB”) enforces the state accessibility code. Other agencies such as the AGO also conduct enforcement. With respect to the HMLP requirements regarding disbursements to contractors, DHCD understands that such requirements are made for the protection of the homebuyer.²⁷³ DHCD does agree, however, that the next AI could include an overview of inter-agency partnerships that have stated plans and/or reference relevant reports by the state Joint Committee on Housing for Persons with Disabilities, or about the inter-agency Supportive Housing Initiative (discussed further in part V, section 15 of the AI), which were created in part to produce greater coordination amongst agencies.

Another area where DHCD does not have full authority or resources to implement a commenter recommendation is the matter of data or surveys regarding persons with disabilities. DHCD has added additional data to the final AI (see part IV, section 2), including data provided through MRC and EOHHS. However, such sources primarily rely on ACS data. With respect to the comment that DHCD collect data that is similar to, and supplemental of, the ACS and other federal surveys, DHCD finds that such data is most appropriately collected through the U.S. Census Bureau, which is also the governmental agency with the most data collection resources, as well as authority to collect on a wide array of household and housing characteristics (including non-subsidized housing). Although some helpful data on accessibility from the AHS is now available for states other than Massachusetts,²⁷⁴ DHCD anticipates that similar or other disability related data will be provided by HUD for states and local jurisdictions based on its proposed rule on Affirmatively Furthering Fair Housing (“AFFH”) (see new discussion of the proposed rule in part 3 of the final AI).

DHCD must also balance the desire to provide reliable and helpful information with the obligation to prevent intrusive or impermissible questioning into the status, nature or severity of a household’s disability by housing providers (the entities that collect and report data to DHCD). HUD regulations implementing the Fair Housing Act prohibit inquiries into disability with limited exceptions, such as to determine eligibility for a housing program.²⁷⁵ HUD guidance also indicates that it is permissible to inquire into and verify the disability status of applicants and residents to determine eligibility, applicable rent deductions, and expense allowances based on disability status as

²⁷³ See e.g., FAQs regarding the program at <http://www.mass.gov/mrc/hmlp>.

²⁷⁴ As noted in the final AI (part IV, section 2), the American Housing Survey now collects data on “home accessibility problems reported”²⁷⁴ and “accessibility features in home,”²⁷⁴ although such data has been made available for only some Metropolitan Statistical Areas in the country, none of which are in Massachusetts.

²⁷⁵ See 24 C.F.R. § 100.202(c).

defined by HUD program. As numerous state administered programs do not determine eligibility or offer deductions based on disability status, further disability data collection is limited. Drawing accurate conclusions from inquiries would also be limited due to the broad definition of disability under fair housing laws, as well as an expected reluctance on the part of many data subjects to acknowledge a disability to a housing provider (as opposed to a more removed party such as the Census Bureau) when such status is ordinarily private or not readily known.²⁷⁶ However, to help address data gaps, DHCD has also attempted to collect disability-related data beyond what is required under Chapter 334 as noted in the AI (part IV, section 2).

Notwithstanding the data limitations raised, DHCD supports the need for greater accessibility and housing options for persons with disabilities, and is therefore not postponing or conditioning efforts on further data, as evidenced by the numerous initiatives and funding efforts discussed in part V, sections 14 and 15 of the AI. DHCD is currently prioritizing funding for such initiatives rather than for supplementing data provided by other sources, such as the Census Bureau, HUD, or housing authorities. DHCD does, however, recognize that data limitations must be considered when attempting to measure fair housing issues, as well as success of policy responses concerning persons with disabilities, particularly in view of the broad fair housing definition of disability.

DHCD agrees that community connectivity and enrichment for persons with disabilities as suggested by the commenter should meaningfully inform policy, and as such has updated the AI discussion of opportunity indicators for consideration in working groups (part V, section 6), and the discussion on mobility (part V, section 12). Regarding the suggestion that DHCD invest in a field study to gather information on this topic, although DHCD does not have the resources to do so at this time, there are numerous agencies and organizations that serve persons with disabilities that could offer insight through the working groups.

With respect to the commenter's inquiries regarding DHCD accessibility data on state assisted units, DHCD notes that it defines the term "accessible" as a unit that can be approached, entered, and used by persons with mobility impairments, including persons in wheelchairs, and in terms of sensory impairments, a unit that can be approached, entered, and used by persons with hearing and/or vision impairments. Such definitions are based on the Section 504/UFAS and MAAB regulations definition of accessibility. Accessibility data collected and compiled on state assisted units (private and public housing) are discussed in part V, section 7 of the AI (see Tables 7.12-7.14 in particular). In response to the inquiry regarding the MassAccess classification of accessible units, DHCD notes that MassAccess data (as well as DHCD data) is based on reporting by housing providers, and that the MassAccess website includes a glossary of housing terms for reference.²⁷⁷ In response to other data comments/questions: Census group quarter figures are further discussed and distinguished from other disability figures (that exclude institutionalized populations) in part IV, section 2 of the final AI; the reference to persons with disabilities on the Section 8 waiting list includes single-person households as noted in Table 2.21.

Mobility considerations and barriers faced by voucher holders

Commenters provided insight on various types of barriers that voucher holders or other low and extremely low-income persons face in finding housing, including in higher income and "opportunity"

²⁷⁶ DHCD notes again that even the U.S. Census Bureau, through the ACS, excludes numerous types of disabilities. Under the ACS, a person is considered to have a disability if he/she answers "yes" to a: hearing, visual, cognitive (serious difficulty concentrating, remembering, or making decisions because of a physical, mental, or emotional condition), ambulatory, self-care, or independent living disability.

²⁷⁷ See <http://www.massaccesshousingregistry.org/resources/general-resources> (categorizing accessible units as "barrier-free units" (accessible to people in wheelchairs as well as types of disabilities), and "other accessible units" (not barrier free but containing other accessible features, such as for persons with hearing or vision impairments)).

areas. One such barrier is availability of affordable and accessible units. One commenter additionally noted that the HLMP is an important resource, although it has limitations (see discussion of accessibility and housing options for persons with disabilities above).

Regarding the discussion of a mobility initiative in the AI (part V, section 12), one commenter stated that it should include people without children, including persons with disabilities for whom safe neighborhoods in particular is also an issue. Another commenter recommended that the poverty threshold of communities that voucher holders should be encouraged to move to should not exceed 10%, while a different commenter acknowledged that major cuts to the Section 8 program will make the prospect of approval of higher payment standards (for higher cost areas) remote, as hundreds of current voucher holders may lose their vouchers in 2014 due to such cuts. The same commenter stated that accessible units should be safeguarded from housing losses anticipated to result from cuts to the program.

One commenter stated that the AI should emphasize that source of income is a protected class on the discussion of housing development for extremely low-income households (part V, section 8), and that discrimination on this basis is often a proxy for racial discrimination. Another commenter suggested that the prevalence of lead paint, which impacts housing options for families with children, should be further discussed in the AI.

In reference to the Draft AI's recommended partner action regarding testing in "opportunity areas" to support mobility to such areas, one commenter suggested DHCD consider using administrative funds from its federal Community Development Block Grant ("CDBG") allocation (for distribution to non-entitlement communities) and/or encourage small cities to apply to use CDBG funds for such a purpose. Another commenter suggested that the AI call for more HUD funded testing.

Response:

DHCD agrees with the comment that persons with disabilities, including those without children, should be included in mobility initiatives. The AI underscores that persons with disabilities are disproportionately extremely low-income and, in addition to facing serious challenges in finding affordable rents, further challenges may exist if accessibility is needed. A mobility initiative could assist with accessible units, although it should be noted such assistance is also provided through housing consumer agencies and the Money Follows the Person ("MFP") pilot program. It is unclear whether the comment referencing loss of accessible units as a result of cuts to the Section 8 HCVP program (administered through DHCD or LHAs) pertains to project-based units ("PBVs"); DHCD does not anticipate loss of PBVs at this time, although the extent and impact of the cuts is still uncertain.

As now noted in the AI, part of DHCD's ongoing effort to end homelessness is to strongly encourage developers of low income housing tax credit projects to include units for extremely low-income individuals or households. The threshold requirement for all credit projects remains at 10% of total units. However, DHCD is now encouraging sponsors to consider exceeding the threshold requirement. Moreover, in addition to continuing to fund projects with project-based Section 8 assistance, DHCD is making state-funded project-based rental assistance (MRVP) available to these projects for the first time in over 20 years.

DHCD agrees that discrimination based on source of income may be a proxy for racial discrimination, and the final AI acknowledges this in part V, section 8 as suggested. Further discussion of lead paint has also been incorporated into the AI (see part IV, section 7).

DHCD will also consider the feasibility of using its CDBG administrative funds for fair housing testing in opportunity areas. Approximately 1% of the DHCD CDBG allocation can be used for direct technical

assistance to eligible municipalities, although it is not clear the extent to which they would be able to utilize such assistance to conduct testing or to procure testing services. Eligible municipalities may also apply for CDBG funding to conduct public services as part of its grant, and fair housing testing may be an appropriate service. Currently, it is DHCD CDBG policy that 50% of funding for public social services be used towards building economic security and self-sufficiency. Although further discussion is needed, community use of (or desire to apply for) CDBG funds for testing in lieu of other social services, including domestic violence prevention, job training, job-related child care and transportation assistance, may not be preferable when there are fair housing organizations that already receive funding specifically for testing. DHCD welcomes further input on how it may help organizations increase their testing efforts in “opportunity” areas. DHCD has also added “fair housing testing” to the civil rights evaluation criteria for discretionary funding to communities (part V, section 6 of the AI). DHCD notes that the AI recommends further HUD funding for testing (part V, section 9), although the recommendation highlights testing in “opportunity areas” to align with mobility goals and because testing is already taking place in urban areas such as Boston.

Open and Welcoming Communities

One commenter indicated further research on factors that influence housing choice is needed, specifically stating that research questions might include: where are young households of color moving and why? What are the factors in their decisions? Where would they like to move? What are their perceptions of their housing choices? How are they uniquely perceived by public and private actors in the housing market? Another commenter indicted that housing needs data and data to dispel fiscal myths should be made easily accessible to communities.

Additionally, the commenter suggested DHCD have a statewide standard for affirmative fair housing marketing plans (“AFHMPs”) and local preference. The commenter also suggested willingness (of the organization) to provide related training.

Response:

DHCD has updated part V, section 5 of the AI, acknowledging that further research by partners on housing preferences and barriers perceived by households of color and other protected classes would help expand (e.g., upon the Harvard Civil Rights Project study) current understanding of factors that influence housing choices, and citing the commenter’s suggested research questions. DHCD will also continue to work with partners to provide data for communities, balancing resources, privacy, and policy considerations regarding potential use (e.g., use of data on school age children to inform zoning decisions) as discussed above.

As referenced in the AI (see e.g., Appendix B), DHCD has issued and recently updated AFHMP guidelines, which are generally applicable across the state Subsidizing Agency programs and are a component of SHI eligibility. Such guidelines also provide standards for use of local preferences. However, DHCD cannot create a singular standard for a federal agency such as HUD, a funder and regulatory authority over thousands of units and projects in the state. DHCD conducts trainings on its guidelines, with a focus on staff that review AFHMPs for consistency with the guidelines; DHCD welcomes any additional trainings or outreach support that partners are able to provide given the extensive number of publicly assisted housing providers (in excess of 1,000) across the state.

Other

Singular comments regarding a variety of other topics were raised. For example, one commenter addressed foreclosures, suggesting the AI call for passage of legislation that requires judicial review of all

foreclosures and that makes mediation a mandatory component of the defaulting homeowner's "right to cure." The commenter also suggested adoption of a "self-compliance" program conducted by an independent third party such as the FHCGB.

Additional comments included a recommendation that the working groups advocate for an increase in METCO funding and an expansion of 40S funding beyond the 40R program. One commenter disagreed with the Governor's proposal for regionalizing certain housing authority functions, although expressed support for a central waiting list for all affordable housing. Another commenter indicated the state should give further attention to housing products or programs beyond affordable (rental) housing development, acknowledging the state's commitment to increasing affordable homeownership in 2014 but suggesting small rentals, rehabilitation, and housing for moderate income households should also be considered.

Response:

DHCD agrees with the wisdom and fairness of judicial foreclosures, although does not substitute its judgment for that of the legislature at this time in terms of the feasibility or impact (on the judicial system) of such an approach. The legislature did take important steps through Chapter 194 of the Acts of 2012, "An Act Preventing Unlawful and Unnecessary Foreclosures," which does create further legal standards by requiring lenders to prove loan ownership prior to taking foreclosure action, and also requires creditors to take reasonable steps to avoid residential foreclosures. DHCD has incorporated the comment that a self-compliance program for lenders, conducted by an independent third party (such as the FHCGB), should be noted as an additional best practice.

DHCD agrees that discussion, noting it in the final AI (part V, section 6). DHCD disagrees with the commenter's statement that housing authority functions should not be regionalized because "regional entities cannot know individual markets." To address concerns, DHCD provides extensive information relating to the regionalization proposal, which is intended to improve management and cost-efficiency while still maintaining local contributions and interests, online at <http://www.mass.gov/hed/housing/ph-manage/commission-on-public-housing-sustainability-and-reform.html>. DHCD also notes that in addition to the issues with creating a singular waiting list for all affordable housing as discussed in part V, section 13 of the AI, individual operation of 241 housing authorities without regional management impedes the feasibility of DHCD resources to support such a measure.

With respect to the comment on other housing products, small rental projects, market rate housing (i.e., through the HDIP program as well as subsidies for development under Chapter 40B, which is typically 75% market rate), and housing rehabilitation (largely covered through state and locally administered federal CDBG), are already provided for through DHCD, HUD, and the quasi-public state agencies, although DHCD welcomes specific proposals.